VOLUME I JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11247
STATE OF WISCONSIN AND PUBLIC SERVICE COMMISSION
OF WISCONSIN, Petitioners
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

No. 11241
CITY OF DETROIT, MICHIGAN, Petitioner,
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

No. 11242
CITY OF KANSAS CITY, MISSOURI, Petitioner,
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

No. 11245
CITY OF MILWAUKEE, WISCONSIN, a Municipal Corporation, Petitioner,
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

No. 11252
COUNTY OF WAYNE, MICHIGAN, Petitioner,
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

754

United States Court of Appeals
SEP

Review of An Order of the Federal Power Commission

CONTENTS

Petitions For Review — Orders of Intervention

Testimony—Record Pages 1-3268

THE GILMAN PRESS, MADISON, WISCONSIN

Volume I

JOINT APPENDIX

INDEX

VOLUME I

	Record Page	Appendix Page
Joint and Several Petition of State of Wisconsin and Public Service Commission of Wisconsin to Review Orders of the Federal Power Commission in Its Docket G-1148, Filed November 20, 1951		1-33
Petition of City of Milwaukee to Review an Order of the Federal Power Commission in Its Docket No. G-1148 Relating to an Opinion and Order Entered by the Commission on August 16, 1951 (Order No. 217, Issued August 22, 1951), Filed November 15, 1951		34-43
Petition of City of Kansas City, Missouri, for Review of Order of Federal Power Commission, Filed November 14, 1951		44-56
Petition of the City of Detroit, Michigan, for Review of Order of Federal Power Commission, Filed November 14, 1951		57-72
Motion of Phillips Petroleum Company for Leave to Intervene, Filed January 29, 1952		72-77

	Record Page	Appendix Page
Order of United States Court of Appeals for the District of Columbia Circuit permitting Phillips Petroleum Company to Intervene, Dated February 9, 1952, Filed February 9, 1952		78-79
Motion of State of New Mexico, et al. for Leave to Intervene, Filed February 5, 1952		80-84
Order of United States Court of Appeals for the District of Columbia Circuit permitting State of New Mexico and Oil Conservation Commission of State of New Mexico to Intervene, Dated March 3, 1952, Filed March 3, 1952		84-86
Motion of the Corporation Commission of the State of Oklahoma for Leave to Intervene, Filed April 9, 1952		87-96
Answer of State of Wisconsin and Public Service Commission of State of Wisconsin to Motion of the Corporation Commission of the State of Oklahoma for Leave to Intervene, Filed April 16, 1952		96-99
Motion of the State of Texas Through the Railroad Commission of Texas for Leave to Intervene, Filed April 10, 1952		100-106

	Record Page	Appendix Page
Stipulation With Respect to the Motion to Intervene of the State of Texas Through Its Railroad Commission and the Corporation Commission of the State of Oklahoma and the Motions of the State of Wisconsin and Its Public Service Commission to Dismiss the Aforesaid Motions to Intervene, Filed May 7, 1952		106-111
Order of the United States Court of Appeals for the District of Columbia Circuit Permitting Corporation Commission of State of Oklahoma to Intervene, Dated May 12, 1952, Filed May 12, 1952		111-114
Order of the United States Court of Appeals for the District of Columbia Circuit Permitting the State of Texas Through the Railroad Commission of Texas to Intervene, Dated May 12, 1952, Filed May 12, 1952		114-117

WITNESSES

Testimony of:

	Record Page	Appendix Page
Marsh, Edward (Presiding Examiner-opening statement)	7-9	118-119
Luttring, Carl E.		
Direct examination by Mr. McAllister	94, 100	119-120
	101-106	120-123
	111-112	124

	Record Page	Appendix Page
Etchieson, W. S.		
Direct examination by Mr. McAllister	150-152	124-126
	170	126
	173	127
	176-178	127-129
	184-186	129
Walters, Mason G.		
Direct examination by Mr. McAllister	225-226	130
	250-252	130-132
	259-261	132-134
Etchieson, W. S. (recalled)		
Direct examination by Mr. McAllister	265	134
	292-302	134-142
	306-311	142-146
	317-319	146-148
	325-326	148
Cross examination by Mr. Sparks	327	148
	338-339	149-150
Adams, Kenneth S.		
Direct examination by Mr. McAllister	370	150
	407-413	150-155
	445-453	156-161
	455-457	161-163
	466-472	163-168
	505-507	168-170

	Record Page	Appendix Page
Etchieson, W. S.		
Direct examination (resumed) by Mr. McAllister	645-646	170
	657-658	171
	734-737	171-174
Cross examination by Mr. Sparks	744	174
	746-762	174-185
	766-767	185-186
	775-779	186-188
	917-919	188-190
Redirect examination by Mr. McAllister	934	190
	942-943	190
Walters, Mason G. (recalled)		
Direct examination (resumed) by Mr. McAllister	993-1001	191-196
Cross examination by Mr. Sparks	1001	197
Paris, A. W.		
Direct examination by Mr. McAllister	1002-1004	197-198
	1018-1020	198-200
	1034	200
	1045-1046	200-201
	1048-1049	201-202
	1082-1084	202-203
	1094-1095	204-205
	1103-1105	205-206
	1108-1112	206-209
	1116	209-210
	1119-1121	210-212

	Record Page	Appendix Page
Direct examination (resumed) by Mr. Perdue	1122-1124	213-215
	1131-1134	215-217
	1146-1148	217-218
Cross examination by Mr. Sparks	1157-1183	219-237
	1191-1198	238-243
Walters, Mason G. (recalled)		
Further direct examination by Mr. Purdue	1211	244
	1213-1216	244-246
Markley, Howard		
Direct examination by Mr. Purdue	1217-1220	246-248
	1225	248
	1227-1230	249-250
	1232	250-251
	1269-1274	251-255
	1301-1303	256-257
	1311-1315	257-261
	1341	261
	1344-1345	262
Examination by Mr. Torkelson	1372	262
	1379	262-263
Cross examination by Mr. Sparks	1380-1385	263-267
	1395-1396	267-269
	1425-1427	269-270
	1463-1466	270-273
Redirect examination by Mr. McAllister	1473	273
	1486-1488	273-275
	1541-1542	275-276

	Record Page	Appendix Page
Redirect examination (resumed) by Mr. McAllister	1545	276
	1555-1556	276-278
Examination by Mr. Torkelson	1562-1564	278-279
Examination by Mr. McAllister	1568-1569	279-280
Recross examination by Mr. Sparks	1569	280
Roth, George C.		
Direct examination by Mr. Joffee	1576-1587	281-288
	1590-1593	288-290
Cross examination by Mr. Sparks	1602-1604	291-292
	1657	292-293
Schumacher, A. H.		
Direct examination by Mr. Joffee	1666-1669	293-295
Stewart, Robert Boyd		
Direct examination by Mr. Purdue	1671	295
	1674	295-296
	1680	296
Walters, Mason G. (resumed)		
Redirect examination by Mr. McAllister	1744-1745	296-298
	1786-1787	298
	1789	298-299

	Record Page	Appendix Page
Rippel, A. M.		
Direct examination by Mr. Purdue	1796-1797	299-300
Markley, Howard (resumed)		
Examination by Mr. McAllister	1867	300
	1869-1870	300-301
	1881-1882	301-302
	1898, 1902	302
	1973, 1975	303
Rippel, A. M. (resumed)		
Direct examination by Mr. McAllister	1977-1982	303-306
	1985-1986	307-308
	1990-1993	308-310
	2014	310-311
	2020-2022	311-312
	2024-2026	313-314
	2030-2032	314-315
	2037-2038	315
	2093-2094	315-316
	2097-2098	317
	2103-2104	317-318
Bunn, George P.		
Direct examination by Mr. McAllister	2107-2108	319-320
	2121-2123	320-322
	2132-2134	322-323
	2136-2137	323-324
	2147-2148	324-326
Cross examination by Mr. Sparks	2157-2160	326-329

	Record Page	Appendix Page
O'Leary, Henry J.		
Direct examination by Mr. Honeck	2166, 2172	329
	2176	329
	2178	329-330
	2181-2185	330-334
Bunn, George P. (resumed)		
Redirect examination by Mr. McAllister	2221	334
	2256-2261	334-339
Recross examination by Mr. Sparks	2271-2272	339
	2284-2285	339-341
	2309	341
	2355-2358	341-343
	2421-2422	343-344
Stark, C. O. (resumed)		
Examination by Mr. Torkelson	2466	344
	2470-2471	344-345
	2726	345
Beall, K. E.		
Direct examination by Mr. Torkelson	2726-2727	345-346
	2729, 2732	346
Examination by Mr. McAllister	2733-2734	346-347
	2737	347-348
	2742, 2747	348
	2752	348
	2759-2760	349
	2812	349-350

	Record Page	Appendix Page
Bunn, George P. (resumed)		
Direct examination by Mr. Sparks	2813	350
	2819	350
	2923-2926	350-353
	2935	353
	2939-2940	353-354
	2949-2950	354-355
	2999-3000	355
	3049-3052	355-356
	3055-3058	356-359
	3094-3096	359-361
	3109-3111	361-363
	3140-3141	363
	3146-3147	363-364
	3208	364
	3257-3268	364-374

VOLUME I JOINT APPENDIX

United States Court of Appeals

FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11247
STATE OF WISCONSIN AND PUBLIC SERVICE COMMISSION
OF WISCONSIN, Petitioners
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

No. 11241
CITY OF DETROIT, MICHIGAN, Petitioner,
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

No. 11242
CITY OF KANSAS CITY, MISSOURI, Petitioner,
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

No. 11245
CITY OF MILWAUKEE, WISCONSIN, a Municipal Corporation. Petitioner,
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

No. 11252
COUNTY OF WAYNE, MICHIGAN, Petitioner,
versus
FEDERAL POWER COMMISSION, Respondent
PHILLIPS PETROLEUM COMPANY ET AL., Intervenors.

Review of An Order of the Federal Power Commission

CONTENTS

Petitions For Review **Orders of Intervention**

Testimony—Record Pages 1-3268

JOINT AND SEVERAL PETITION OF STATE OF WISCONSIN AND PUBLIC SERVICE COMMISSION OF WISCONSIN TO REVIEW ORDERS OF THE FEDERAL POWER COMMISSION IN ITS DOCKET G-1148

11,247

To the Honorable, the United States Court of Appeals for the District of Columbia Circuit:

The State of Wisconsin and Public Service Commission of Wisconsin file their joint and several petition under Section 19 (b) of the Natural Gas Act to review and set aside an order of the Federal Power Commission issued August 22, 1951 in connection with said Commission's Opinion No. 217, and the Commission's order denying the application of these petitioners for rehearing, which latter order was issued September 28, 1951, all of which was in a proceeding before said Commission entitled "In the Matter of Phillips Petroleum Company, Docket G-1148."

For their petition the State of Wisconsin and Public Service Commission of Wisconsin respectfully allege as follows:

1. Identity of Petitioners

(1) At all times herein mentioned the State of Wisconsin was and is one of the forty-eight sovereign states forming the United States of America. It appeared before the Federal Power Commission in the proceeding entitled "In the Matter of Phillips Petroleum Company, Docket G-1148" and it petitions and appears herein in its sovereign

capacity and by its agency, the Public Service Commission of Wisconsin, to protect a two-fold interest as follows: (a) as the representative of the consuming public which purchases natural gas in the State of Wisconsin from distributing companies located in such states, which companies in turn purchase said natural gas in the State of Wisconsin from Michigan-Wisconsin Pipe Line Company, which latter company in turn purchases its entire supply of said natural gas from Phillips Petroleum Company at a point in the State of Texas, and (b) as a user or consumer of natural gas purchased from a distributing company located in the State of Wisconsin (Madison Gas & Electric Company, Madison, Wisconsin), which distributing company purchases said gas from Michigan-Wisconsin Pipe Line Company as above stated, by virtue of its being the proprietor of certain public institutions, schools and buildings.

(2) The Public Service Commission of Wisconsin was at all times herein mentioned an agency of the State of Wisconsin created by and deriving its authority and powers from statutory grant by the Wisconsin Legislature. The authority and powers so granted the Public Service Commission of Wisconsin appear in Chapters 195 and 196 of the Wisconsin Statutes. Among other powers and authority given to said Commission is that which follows from Sections 195.01, 196.01, 196.02, 196.03, 196.20 and 196.37, Wisconsin Statutes, to regulate rates charged by and the adequacy of service furnished by public utilities located in the State of Wisconsin, including those which sell and deliver natural gas to the public for ultimate consumption for domestic, commercial, industrial or any other use, to the end that such rates shall be reasonable and just, and that such public utilities furnish reasonably adequate serv-

ice and facilities to the public. That the Public Service Commission of Wisconsin is a "state commission" within the meaning of the term as used in Sections 2 (8), 13 and 15 of the Natural Gas Act and Section 1.8 of the General Rules and Regulations and Rules of Practice and Procedure of the Federal Power Commission.

2. Nature of Proceedings As to Which Review Is Sought

(3) By order dated October 28, 1948, issued October 29, 1948, pursuant to authority granted it by the Natural Gas Act, the Federal Power Commission instituted an investigation of the natural gas operations of Phillips Petroleum Company to determine:

(i) Whether it is a "natural-gas company" within the meaning of the Natural Gas Act; and

(ii) Whether, in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, any rates, charges, or classifications demanded, observed, charged, or collected, or any rules, regulations, practices or contracts affecting such rates, charges, or classifications are unjust, unreasonable, unduly discriminatory, or preferential.

(4) On February 9, 1950 the Federal Power Commission issued another order in which reference was made, among other things, to complaints filed by the City of Detroit and Public Service Commission of Wisconsin and the results of field investigations made by the staff of the Federal Power Commission, as to the relation of Phillips

Petroleum Company to a number of pipe line companies. In referring to Michigan-Wisconsin Pipe Line Company, the Commission said:

> "As stated above, the present annual sales capacity of 56,575,000 Mcf is proposed to be increased to 125,195,000 Mcf and it appears from staff estimates that the annual cost to Michigan-Wisconsin of 125,195,000 Mcf of natural gas which Phillips will supply to Michigan-Wisconsin under the contract of December 11, 1945, as amended, and the two new contracts of December 1, 1949, would be increased approximately $5,000,000 annually over the cost under the original contract. Furthermore, such contracts contain other provisions which, upon becoming operative in the future, may result in further substantial increases in the cost of gas to be supplied Michigan-Wisconsin.
>
> "Phillips has contracted to sell and is selling large volumes of natural gas from the Panhandle and Hugoton gas fields to Panhandle Eastern Pipe Line Company, Northern Natural Gas Company, Independent Natural Gas Company, and El Paso Natural Gas Company at various prices substantially lower than the base prices specified in its contracts with Michigan-Wisconsin.
>
> "Wherefore, it appears to the Commission that:
>
> "It is necessary and desirable in the public interest that a public hearing be held to determine all relevant facts and circumstances surrounding the natural gas operations of Phillips Petroleum Company to enable the Commission to determine (a) Whether Phillips Petroleum Company is a 'natural-gas company' within the meaning of the Natural Gas Act; (b) Whether in connection with any transportation or sale of natural gas subject to the jurisdiction of the Commission, in-

cluding sales to Michigan-Wisconsin Pipe Line Company, any rates, charges, or classifications demanded, observed, charged, or collected by Phillips Petroleum Company, or any rules, regulations, practices, or contracts affecting such rates, charges, or classifications are unjust, unreasonable, unduly discriminatory or preferential.

"The Commission *orders*:

"(A) A public hearing be held commencing at 10 a. m. (CST) on March 20, 1950, in the Federal Court Room, U. S. Post Office Building, Bartlesville, Oklahoma, respecting all matters and issues set forth in this order and the Commission's order of investigation under date of October 28, 1948.

"(B) Interested State commissions may participate as provided by Sections 8 and 37 (f) [18 CFR 1.8 and 1.37 (f)] of the Commission's Rules of Practice and Procedure."

(5) After a number of adjournments the Federal Power Commission issued an order on February 28, 1951 setting the matter for hearing in Bartlesville, Oklahoma commencing April 3, 1951 at 10 a. m. Prior to said hearing a number of persons, including your petitioners, representing consumer interests, intervened in said proceeding, and are listed as follows:

Public Service Commission of Wisconsin

State of Wisconsin

City of Detroit, Michigan

County of Wayne, Michigan

City of Kansas City, Missouri

City of Milwaukee, Wisconsin
Michigan Public Service Commission

In addition there were other intervenors including the following:

State of New Mexico
State Corporation Commission, State of Kansas
Corporation Commission, State of Oklahoma
Railroad Commission of Texas
State of Texas
Oil and Gas Commission, State of Arkansas
Oil and Gas Board, State of Mississippi
Public Service Commission of West Virginia
Commissioner of Conservation, State of Louisiana
Texas County Land and Royalty Association
Texas Independent Producers and Royalty Owners Association
Certain Royalty Owners in Old Ocean Field Brasoria County, Texas
Old Ocean Royalty Owners
Independent Natural Gas Association of America
Port Neches Royalty Owners Association

(6) Prior to the hearing in Bartlesville, Oklahoma, on April 3, 1951, Phillips Petroleum Company filed a motion with the Federal Power Commission requesting it to amend its order of February 9, 1950 defining the issues so as to limit the issue to be considered at said hearing to a

determination whether it was a "natural gas company" within the meaning of the Natural Gas Act.

(7) Upon the opening of the hearing in Bartlesville, Oklahoma on April 3, 1951, the presiding examiner made the following statement (Tr. 7-9):

> "* * * I want to announce that I have received from the Secretary of the Commission the following memorandum, and I quote:
>
> " 'March 30, 1951, Memorandum for: Presiding Examiner Marsh, Bureau of Law, Bureau of Accounts, Finance and Rates.
>
> " 'For your information, the following is an excerpt from the minutes of a meeting of the Commission held on March 29, 1951: "The Commission had before it the Motion to Limit Issues filed on March 27, 1951, by Phillips Petroleum Company in Docket No. G-1148, but decided to defer action thereon until the other parties to the proceeding have had the opportunity provided for by the Rules to file answers to said motion. Upon motion of Commissioner Draper, seconded by Commissioner Wimberly, the Commission (Commission Buchanan dissenting) directed that, in the meantime, the Examiner designated to preside at the hearing in said proceeding scheduled to commence on April 3, 1951, be instructed to confine the taking of testimony to Paragraph (A) (i) of the order of the Commission entered October 28, 1948, and issued October 29, 1948." Signed Leon M. Fuquay, Secretary.' That memorandum was accompanied by a memorandum of transmittal, which reads as follows:
>
> " 'Because of time limitations, we will not be able to serve notice of this action upon the participants in the proceeding. I will, therefore, apreciate it if you

> will have it spread upon the record at the opening of the hearing.' "

Thereupon your petitioners, the staff of the Federal Power Commission, the Cities of Milwaukee, Kansas City and Detroit, and possibly others, filed objection to said motion with the Federal Power Commission. On April 17, 1951 the Federal Power Commission issued an order (Commissioner Buchanan dissenting) limiting the issue at said hearing to the so-called "jurisdictional question," i. e., whether Phillips Petroleum Company is a natural gas company within the meaning of the Natural Gas Act. That said order reads in part as follows:

> "Upon consideration of the motion to limit issues filed herein by Phillips on March 27, 1951, of the Commission's orders issued herein, and all of the foregoing, the Commission *finds*:
>
> "(1) Although the Commission by order has set forth the issues to be heard herein, the order in which such issues shall be heard has not been prescribed.
>
> "(2) Orderly procedure requires that the following issue, heretofore set forth in the Commission's orders issued herein, first be heard at the hearing now in progress, viz: Whether Phillips Petroleum Company is a 'natural-gas company' within the meaning of the Natural Gas Act.
>
> "(3) Orderly procedure requires, and it is in the public interest, that hearing be held upon and a determination made by the Commission of the issue of whether Phillips Petroleum Company is a 'natural-gas company'

within the meaning of the Natural Gas Act, before hearing is held upon any other issue in this proceeding.

"(4) Hearing upon issues herein other than that set forth in paragraph (2) hereof should be held as soon as practicable after hearing upon said issue, at a time and place to be fixed by further order of the Commission.

"(5) The motion to limit issues filed by Phillips on March 27, 1951, should be granted to the extent hereinafter ordered, and in all other respects should be denied.

"The Commission *orders*:

"(A) The matters to be presented at the public hearing now in progress shall be only those relevant to the following issue set forth in the Commission's order of investigation issued October 29, 1948, to-wit: Whether Phillips Petroleum Company is a 'natural-gas company' within the meaning of the Natural Gas Act.

"(B) A public hearing he held upon the remaining issues set forth in the Commission's order of investigation issued October 29, 1948, at a time and place to be fixed by further order of the Commission.

"(C) The Motion to Limit Issues, filed herein by Phillips Petroleum Company on March 27, 1951, is granted to the extent herein ordered, and in all other respects is denied.

"By the Commission. Commissioner Buchanan dissenting."

(8) Following the completion of the hearing on the issue above stated, the so-called intermediate procedure provided for by the Rules of Practice and Procedure of the Federal Power Commission (see sec. 1.30 (c)) was dispensed with, and following the submission of briefs and oral argument before the Commission and order was issued by said Commission on August 22, 1951, based on alleged reasons stated in Opinion No. 217 and purported findings (Commissioner Buchanan dissenting and Commissioner Draper concurring in the result), which order reads as follows:

> "The Commission *orders*:
>
> "That the proceeding initiated by the Commission's order of October 28, 1948, in Docket No. G-1148 be, and the same hereby is, terminated.
>
> "By the Commission. Commissioner Draper concurring in the result. Commissioner Buchanan dissenting."

(9) Thereafter applications for rehearing from said Opinion and order were filed by the following parties on the dates specified:

Applicant	*Date*
State of Wisconsin and Public Service Commission of Wisconsin	September 17, 1951
City of Milwaukee, Wisconsin	September 12, 1951
City of Kansas City, Missouri	September 10, 1951
City of Detroit, Michigan	September 19, 1951
County of Wayne, Michigan	September 19, 1951

On September 28, 1951 the Federal Power Commission issued an order (Commissioner Buchanan dissenting) denying each of said applications for rehearing.

3. Facts and Statutes Upon Which Jurisdiction Is Based

(10) The proceeding here is to review the aforesaid order of the Federal Power Commission issued August 22, 1951 (Commissioner Buchanan dissenting) and order issued September 28, 1951 denying the applications of your petitioners and the others above mentioned for rehearing. Jurisdiction of this court to review said orders is established by Section 19 (b) of the Natural Gas Act.

(11) The State of Wisconsin is aggrieved by the aforesaid orders of the Federal Power Commission by which it refuses to assume jurisdiction over Phillips Petroleum Company as a "natural gas company" as defined by Section 2 (6) of the Natural Gas Act, and particularly by its refusal to assume jurisdiction over its sales of natural gas to (a) Michigan-Wisconsin Pipe Line Company, (b) El Paso Natural Gas Company, (c) Panhandle Eastern Pipe Line Company, (d) Independent Natural Gas Company for sale to Northern Natural, and (e) Cities Service Gas Company. After taking delivery of said natural gas, said pipe line companies carry the gas in pipe lines across state lines to markets in states other than those where Phillips sells and delivers the gas to the Pipe Line Companies, where the gas in turn is sold and delivered by the Pipe Line Companies to others who in turn sell and distribute said gas to the consuming public for domestic, commercial, industrial and other uses. Phillips Petroleum Company

concedes, and the Federal Power Commission found, that the sale of natural gas by Phillips to the five Pipe Line Companies above mentioned are each a sale of natural gas in interstate commerce for resale for ultimate consumption for domestic, commercial, industrial or other use. More specifically, so far as the situation in Wisconsin is concerned, the Federal Power Commission by its orders refused to take jurisdiction over the sale of natural gas by Phillips Petroleum Company to Michigan - Wisconsin Pipe Line Company in the State of Texas (which Phillips Petroleum Company admits and the Federal Power Commission found was a sale of natural gas in interstate commerce for purposes of resale). The pipe line company then transports the natural gas so purchased in pipe lines to points in the State of Wisconsin (as well as in other states) where it in turn sells said natural gas to distributing companies. Said companies in turn sell and deliver gas to the public for ultimate public consumption for domestic, commercial, industrial or other use in the State of Wisconsin as well as Michigan and other states. Phillips Petroleum Company is the sole supplier of all natural gas transported by Michigan-Wisconsin Pipe Line Company (delivering up to 343,000 Mcf per day) and said pipe line company in turn is the sole supplier of natural gas to local distributing companies serving the Cities of Madison (Madison Gas and Electric Company) and Milwaukee (Milwaukee Gas Light Company), the two principal cities in Wisconsin, as well as those serving other communities along the shore of Lake Michigan and the Fox River Valley Area, the principal industrial areas of the state. Consumers in such areas form a substantial portion of the population of the State of Wisconsin.

(12) The price which Michigan-Wisconsin Pipe Line Company pays Phillips Petroleum Company becomes a factor in the amount the ultimate consumer in Wisconsin must pay for natural gas in said state.

(13) The State of Wisconsin here petitions and appears in this court in its sovereign capacity to represent and protect as *parens patriae* the interest of the consuming public in Wisconsin which uses natural gas transported into the state purchased by Michigan-Wisconsin Pipe Line Company. *Georgia v. Pennsylvania Railroad Co.,* 324 U. S. 439.

(14) The State of Wisconsin is also the proprietor of institutions, schools and buildings and by reason thereof is itself a consumer of natural gas purchased from Madison Gas and Electric Company (among other companies) which in turn purchases its entire supply of natural gas from Michigan-Wisconsin Pipe Line Company. In the period from December, 1949, when natural gas was first introduced in Madison, Wisconsin, through March 31, 1951, the State of Wisconsin purchased the following quantities of natural gas from Madison Gas and Electric Company:

	Amount of Gas	*Cost*
State of Wisconsin, for Executive Mansion	1,472.8 Mcf	$ 1,558.10
State of Wisconsin, for University of Wisconsin	12,482.7 Mcf	$13,479.84

(15) The price which Phillips Petroleum Company charges Michigan-Wisconsin Pipe Line Company was and is excessive and discriminatory. For the year ended December 31, 1950, the natural gas department of Phillips

Petroleum Company earned a return in excess of 16.5% on a rate base consisting of a net investment as per its books plus an allowance for materials and supplies and working capital. This is shown by Exhibits 3 to 7 prepared and offered by the staff of the Federal Power Commission in the proceeding before the Commission in said Docket G-1148, which were excluded from the record by the presiding examiner on the alleged ground they were not material to the jurisdictional issue. Said exhibits were later adopted by Wisconsin as its own exhibits and an offer of proof made (Tr. 5763) on the ground they were material to the jurisdictional issue as showing the impact of an unregulated price between Phillips and the pipe line companies upon the ultimate consumer, and the latter's interest in and need for regulation. See Section 1 (a), Natural Gas Act, and *Interstate Natural Gas Co. v. Federal Power Commission,* 331 U. S. 682, 693. The record in Docket G-1148 further shows that the original contract of December 11, 1945 provided that Phillips supply Michigan-Wisconsin Pipe Line Company up to specified quantities of gas at 5-cents Mcf for the first 5 years beginning July 1, 1948. Then by amendment of August 9, 1948 the price was increased to 8½-cents Mcf with a 1-cent increase for each successive 5-year period. Said amendment included an escalator clause which would bring increased revenue to the company in an amount ranging between $15 and $20 million over the life of the contract. There were also subsequent amendments, the effect of which nearly doubled the cost of gas to Michigan-Wisconsin. Prior to the amendment of August 9, 1948 Phillips expected to realize a return of 9.5%, whereas after the amendment the expected return would be 13.76%. The record in Docket G-1148 also shows that as part of its operations Phillips "farmed out" 100 square miles of proven acreage under a lease of such acreage to Tascosa Gas Company (Exhibit 60). By this "farm-out" Tascosa drills the wells, and resells the gas to Phillips at a price which produces a handsome profit to Tascosa. Thus we have a superfluous middleman in the picture also taking its profit, which, if eliminated, would decrease the amount which Phillips charges said pipe line companies and still permit a fair return.

(16) Undue discrimination as to the price Phillips charges Michigan-Wisconsin Pipe Line Company, as compared to the other pipe line companies it sells gas to, is shown by the figures taken from Exhibit 54 in Docket G-1148 as follows:

	Gasoline Plant	*1950 Average Price Mcf.*
Michigan-Wisconsin	Sherman	8.17 cents
Panhandle Eastern	Hansford	4.03 "
	Borger Residue System	4.03 "
El Paso Natural Gas Co.	Crane	4.69 "
	Eunice	3.81 "
	Fullerton	4.07 "
	Goldsmith	4.92 "
	Borger Residue System	5.05 "
Independent Natural Gas Co.	Pampa Residue System	2.45 "

The average price on the total sales of residue gas by Phillips for the year 1950 was 5.38-cents Mcf. Michigan-Wisconsin paid 8.17-cents.

(17) The State of Wisconsin in its sovereign capacity as *parens patriae* for consumers of natural gas in Wisconsin and also as a consumer of natural gas itself is aggrieved by the failure of the Federal Power Commission, in issuing the orders previously mentioned, to determine that it has jurisdiction over Phillips Petroleum Company as a "natural gas company" as defined in Section 2 (b) of the Natural Gas Act; and is further aggrieved by the failure of said Commission to take jurisdiction over Phillips' sale of natural gas to the pipe line companies previously mentioned and by said Commission's failure to regulate the price or rate charged by Phillips for such gas, and particularly the sale to Michigan-Wisconsin Pipe Line Company. By such failure to take jurisdiction, there is precluded any possibility of (1) securing a reduction in the excessive rates and charges which Phillips exacts from Michigan-Wisconsin and the other named pipe line companies; and (2) effecting an elimination of the unduly discriminatory rate or charge which now exists as between the rates or charges exacted by Phillips from Michigan-Wisconsin Pipe Line Company as compared to the other pipe line companies.

(18) The Public Service Commission of Wisconsin is an agency of the State of Wisconsin. By statutes enacted by the legislature of the State of Wisconsin (Chapters 195 and 196, Wisconsin Statutes), said Commission is given power and authority to regulate the rates and charges exacted by and the service rendered by public utilities operating in the State of Wisconsin, and specifically has jurisdiction

given by Sections 196.01 (1), 196.03 (1), 196.20 and 196.37 to regulate the rates and charges imposed by public utilities in Wisconsin for sale of natural gas to consumers within said state, to the end that rates and charges for sale of natural gas must be "just and reasonable" and the service rendered by public utilities selling natural gas shall be reasonably adequate. As such it is a "state commission" as defined by Section 2(8) of the Natural Gas Act and has the right (as also does the State of Wisconsin) to file a complaint with the Federal Power Commission against the rate or charge of any natural gas company in connection with the transportation or sale of natural gas. See Sections 5 (a), 4 (e), 13. As a state commission it is authorized to intervene in a proceeding before the Federal Power Commission as a matter of right by Section 1.8 of the Federal Power Commission Rules of Practice and Procedure. See Title 15 U. S. C. A. §717n.

(19) The Public Service Commission of Wisconsin herein petitions and appears with the State of Wisconsin as a representative of the consumers of natural gas in Wisconsin served by distributing companies which receive gas from Michigan-Wisconsin Pipe Line Company, and also in its capacity as a state regulatory agency having the jurisdiction above mentioned. Said Commission is aggrieved by the orders of the Federal Power Commission previously mentioned in the same manner alleged in paragraph numbered 17, *supra*. Said Commission is further aggrieved by reason of the fact that the refusal of the Federal Power Commission to accept such jurisdiction establishes a "gap" in the regulatory scheme (the price at the city gate being regulated by Federal Power Commission and to the ultimate consumer in Wisconsin by the Public Service Com-

mission of Wisconsin) which impairs and prejudices the regulatory effort by the Public Service Commission of Wisconsin. Excessive and discriminatory charges at that stage, i. e., the sale by Phillips to the pipe line company, become perpetuated in the ultimate cost (see *Interstate Natural Gas Co. v. Federal Power Commission,* 331 U. S. 682, 693) and necesarily compel the Public Service Commission of Wisconsin to fix a rate to the ultimate consumer which is higher than would or should otherwise be required.

(20) The status of the State of Wisconsin and the Public Service Commission as an aggrieved party also is recognized in Section 19 (a) of the Natural Gas Act which reads as follows:

> "Any person, State, municipality, or State commission aggrieved by an order issued by the Commission in a proceeding under this act to which such person, State, municipality or State Commission is a party may apply for a rehearing within thirty days after the issuance of such order. * * *"

(21) The foregoing, taken in conjunction with the provisions authorizing *inter alia* the filing of complaints by any state, state commission, or municipality (Sections 5 (a), 4 (e) and 13), evidences the intent of Congress that a state regulatory commission (as well as the state or any municipality) is aggrieved as a representative of the consuming public, when, by reason of a ruling of the Federal Power Commission, said consumers are deprived of the benefit of rate reduction and the establishment of a just and reasonable and nondiscriminatory rate. A state regulatory commission is not ordinarily a consumer of natural gas. The possibility that it may be aggrieved is

definitely recognized in Section 19 (a). Because of the unlikelihood of a state commission being a consumer of natural gas, it is plain it must be aggrieved in the respects above mentioned. See *Federal Communications Commission v. Sanders Radio Station,* 309 U. S. 470; *Scripps-Howard Radio Inc. v. Federal Communications Commission,* 316 U. S. 4; Associated Industries v. Ickes, 134 F. 2d 694 (C. C. A. 2), vacated and remanded on other grounds, 320 U. S. 707.

4. The Relief Prayed

(22) The relief prayed by your petitioners herein is that the aforesaid order of the Federal Power Commission in its Docket G-1148 issued August 22, 1951, and the order dated September 28, 1951 denying the applications of petitioners and others for rehearing, be set aside in their entirety.

5. The Points Upon Which Petitioners Intend to Rely

(23) The points upon which the State of Wisconsin and Public Service Commission of Wisconsin intend to rely in prosecution of their petition for review in this court are those stated in their joint application and petition for rehearing duly and timely filed with the Federal Power Commission, which will be part of the record which will be filed and certified with the court as provided in Section 19 (b) of the Natural Gas Act, which application and petition for rehearing is incorporated into this petition by reference with the same force and effect as if physically included herein. A concise statement of said points is as follows:

I.

PHILLIPS PETROLEUM WAS AND IS A NATURAL GAS COMPANY AS DEFINED IN SECTION 2 (6) OF THE NATURAL GAS ACT, AND THE FEDERAL POWER COMMISSION ERRED IN CONCLUDING CONTRARYWISE

1. Phillips Petroleum Company admits, and the Federal Power Commission correctly states in its Opinion No. 217, that sales of natural gas by Phillips Petroleum Company to the five pipe line companies involved are sales of natural gas in interstate commerce for purpose of resale for ultimate public consumption for domestic, commercial, industrial or any other use.

2. The Federal Power Commission also correctly found that the movement of natural gas by Phillips Petroleum Company to the points of sale to the five pipe line companies involved constitutes transportation of natural gas in interstate commerce as a matter of constitutional law.

3. Such sales and transportation are each subject to Federal Power Commission jurisdiction by reason of the provisions of Section 1 (b) of the Natural Gas Act. Existence of either such sales or such transportation makes Phillips Petroleum Company a natural gas company as defined in Section 2 (6) of the Natural Gas Act.

a. Section 1 (b) applies to three separate things:

(1) The transportation of natural gas in interstate commerce.

(2) Its sale in interstate commerce for resale.

(3) Natural gas companies engaged in such transportation or sale.

Transportation and sale are viewed as separate subjects of regulation. They have independent and equally important places in the Act. The Federal Power Commission erred as a matter of law in failing to find that by virtue of the foregoing premises Phillips is a "natural gas company" and subject to the jurisdiction of the Commission in the respects provided in the Natural Gas Act.

II.

AS A MATTER OF LAW THE SALES IN QUESTION ARE NOT PART OF "PRODUCTION OR GATHERING" WITHIN THE MEANING OF SECTION 1 (b) OF THE NATURAL GAS ACT, AND THE FEDERAL POWER COMMISSION ERRED AS A MATTER OF LAW IN CONCLUDING TO THE CONTRARY

1. The above proposition is established beyond all doubt by the decisions of the Federal Power Commission, the Court of Appeals for the Fifth Circuit, and the United States Supreme Court in the *Interstate Case. In the Matter of Interstate Natural Gas Co. v. Federal Power Commission,* D. C.) 127 F. 2d 153, hearing denied F. 2d 157, certiorari *Federal Power Commission,* 331 U. S. 682.

2. All hold as a matter of law the sales of natural gas in interstate commerce for purpose of resale are not included in the phrase "production or gathering" contained in Section 1 (b). The same proposition follows from *Peoples*

Natural Gas Co. v. Federal Power Commission, (U. S. App. D. C.) 127 F. 2d 153, hearing denied 127 F. 2d 157, certiorari denied 316 U. S. 700.

3. The basic purpose of the Natural Gas Act was to fill the "gap" created by the decisions of the Supreme Court in *Missouri v. Kansas Natural Gas Co.,* 265 U. S. 298, and *Public Utilities Commission v. Attleboro Steam & Electric Co.,* 273 U. S. 83, and *State Corp. Commission v. Wichita Gas Co.,* 290 U. S. 561, to the effect that the states could not constitutionally regulate sales of wholesale quantities of natural gas (not local in character) at interstate commerce for purposes of resale even in the absence of congressional action.

4. As applied here, this means that the sales of natural gas by Phillips Petroleum Company to the five pipe line companies (i. e., Michigan-Wisconsin Pipe Line Company, El Paso Natural Gas Company, Panhandle Eastern Pipe Line Company, Independent Natural Gas Company for Northern Natural Gas Company, and Cities Service Gas Company) for purposes of resale (involving as they do enormous quantities of gas and being the sole supplier of gas for distributing companies located in distant states), are transactions national, and not local, in character, and hence beyond the constitutional power of the state's regulation even in the absence of congressional action.

5. Because the states cannot constitutionally regulate the sales by Phillips Petroleum Company to the five pipe line companies, such sales cannot fall within the language of "production or gathering" as it appears in Section 1 (b), and the Supreme Court so held in *Interstate Natural Gas Company v. Federal Power Commission*, 331 U. S. 682, 690.

6. The case of *Cities Service Gas Co. v. Peerless Oil & Gas Co.,* 340 U. S. 179, cannot in any way be construed as holding that the states can now constitutionally regulate the sales by Phillips in interstate commerce to the five pipe line companies involved here for purposes of resale.

III.

ALTHOUGH UNNECESSARY SO TO CONTEND (SINCE THE QUESTION MUST BE DECIDED ADVERSELY TO THE COMMISSION'S DETERMINATION THAT THE SALES TO THE FIVE PIPE LINE COMPANIES ARE NOT PART OF "PRODUCTION OR GATHERING" AS A MATTER OF LAW), THE COMMISSION'S DETERMINATION THAT SUCH SALES ARE PART OF "PRODUCTION OR GATHERING" IS CONTRARY TO SUBSTANTIAL EVIDENCE IN THE RECORD

1. The question as to what is included within the term "production or gathering" as used in Section 1 (b) depends upon the intention of Congress in enacting this section. As shown under previous subheads, the sales by Phillips to the five pipe line companies cannot be included in the term "production or gathering" as a matter of law.

2. In any event, the question is one of application of a legal standard and cannot be concluded by expert testimony.

3. Opinion evidence that is inconsistent with undisputed facts or with reason and common sense is not adequate to meet the requirements of "substantial evidence."

4. The testimony of witnesses A. R. Rippel and George P. Bunn, employes of Phillips Petroleum Company, to the effect that the sales to the five pipe line companies are included within "production or gathering" are (a) inconsistent with undisputed facts and (b) contrary to reason and common sense, and are inadequate and cannot be considered as substantial evidence.

IV.

THE DETERMINATION OF THE FEDERAL POWER COMMISSION THAT THE SALES BY THE PHILLIPS PETROLEUM COMPANY TO THE FIVE PIPE LINE COMPANIES ARE SO CLOSELY CONNECTED WITH THE LOCAL INCIDENTS OF "PRODUCTION OR GATHERING" AS TO RENDER RATE REGULATION BY IT INCONSISTENT WITH OR A SUBSTANTIAL INFERENCE WITH THE EXERCISE BY THE STATES OF OKLAHOMA, TEXAS AND NEW MEXICO OF THEIR REGULATORY FUNCTIONS IS ERRONEOUS AS A MATTER OF LAW

1. In arriving at the above conclusion the Federal Power Commission erroneously assumes that the states could in any event regulate the sales in question. This is not true as a matter of constitutional law.

The language of the supreme court at p. 690 of 331 U. S. referring to "sales, though technically consummated in interstate commerce, are made during the course of production and gathering and are so closely connected with the local incidents of that process as to render rate regulation by the Federal Power Commission inconsistent or a substantial interference with the exercise by the State of its regulatory functions, the jurisdiction of the Federal Power Commission does not attach." It does not and cannot refer to the sales by Phillips to the five pipe line companies, since simple logic decrees that the court in using such language could only mean sales which could constitutionally be regulated by the states.

2. "Local incidents" of the process of "production or gathering" are not included within sales of natural gas in interstate commerce for purposes of resale. They are wholly different concepts.

3. If Federal Power Commission regulation can be successfully denied on ground of interference with state regulation in the present case, the Federal Power Commission is ousted of jurisdiction in all cases. Such a claim would be contrary to decisions of the supreme court sustaining Federal Power Commission jurisdiction in cases where it is asserted that it does not exist by virtue of interference with state regulatory efforts. *Colorado Interstate Gas Co. v. Federal Power Commission,* 324 U. S. 581; *Canadian River Gas Co. v. Federal Power Commission,* 324 U. S. 581; *Federal Power Commission v. Hope Natural Gas Co.,* 320 U. S. 591; *Interstate Natural Gas Co. v. Federal Power Commission,* 331 U. S. 682, same case C. C. A., 156 F. 2d 949.

V.

ALTHOUGH UNNECESSARY TO SO CONTEND (BECAUSE THE FEDERAL POWER COMMISSION'S DETERMINATION THAT ITS JURISDICTION OVER SALE BY PHILLIPS TO THE FIVE PIPE LINE COMPANIES WILL INTERFERE WITH STATE REGULATORY EFFORTS IS ERRONEOUS AS A MATTER OF LAW), THE DETERMINATION OF THE COMMISSION THAT ITS ASSUMPTION OF JURISDICTION OVER SUCH SALES WOULD INTERFERE WITH STATE REGULATORY EFFORTS IS CONTRARY TO SUBSTANTIAL EVIDENCE IN THE RECORD

1. The Federal Power Commission fails to state valid reasons for a purported finding or conclusion that its assumption of jurisdiction over the sale by Phillips to the five pipe line companies will interfere with state regulatory efforts, and also fails to refer to any facts on which such finding could be based. The dissenting opinion of Commissioner Buchanan correctly suggests that the Commission's determination rests upon bare assertion—"their own *ipsi dixit.*"

2. All witnesses who testified upon the subject of alleged conflict between Federal Power Commission jurisdiction over the sales in question and interference with state regulatory efforts were unable to point out any actual conflict. The only mention of conflict was based upon hypothetical and assumed situations, none of which were shown to exist.

3. The evidence shows without question that the Federal Power Commission has taken jurisdiction over a number of companies which engage in substantial field operations similar to those carried on by Phillips Petroleum Company which are also subject to jurisdiction by regulatory agencies of the States of Texas, Oklahoma and New Mexico, and no conflict was shown to exist between Federal Power Commission jurisdiction in those cases and that of regulatory commissions.

VI.

THE ATTEMPT OF THE FEDERAL POWER COMMISSION TO CONSTRUE SEC. 1 (b) OF THE ACT BY RESORT TO LEGISLATIVE HISTORY, AND BY REVIEW OF ADMINISTRATIVE AND JUDICIAL DECISIONS WAS ERROR AS A MATTER OF LAW, BECAUSE A STATUTE CLEAR AND UNAMBIGUOUS ON ITS FACE NEED NOT, AND AS A MATTER OF LAW, CANNOT BE "INTERPRETED" BY AN ADMINISTRATIVE AGENCY TO CONTRADICT THE CLEAR LANGUAGE OF THE STATUTE

A. Resort to Legislative History was Erroneous as Matter of Law

In any event, if the legislative history of the Natural Gas Act in any way forms part of the conclusions reached by the Federal Power Commission in the instant case, the Commission has erred in so interpreting such history. The legislative history clearly supports the proposition that the basic purpose of the Natural Gas Act was to fill the "gap" created by decisions of the supreme court above mentioned and to make the sales of natural gas for purposes of resale of the kind made by Phillips Petroleum Company to the five pipe line companies here involved subject to Federal Power Commission regulation.

B. Resort to "Administrative Actions" Was Erroneous as Matter of Law

While it is not clear what purpose the Commission had in so doing, we submit that if such purpose was to establish an administrative interpretation claimed to be binding or persuasive in the present case, the Commission has erred.

1. The rule of administrative interpretation is one of many qualifications and in many instances the courts refuse to follow it. In any event, it can have no application here because (a) the material portion of the Natural Gas Act is plain and unambiguous and not subject to construction, and (b) the course followed by the Federal Power Commission in administering the portion of the Natural Gas Act material here does not meet the requirements that to make the rule applicable the administrative construction, first, must not be contrary to the language of the statutes or erroneous and, second, must be uniform and of long standing.

C. Review of Judicial Decisions Was Error as Matter of Law

In support of its several erroneous findings of fact and conclusions of law, the Federal Power Commission, in its

Opinion No. 217, has presumed to review the several judicial decisions rendered in cases involving Sec. 1 (b) of the Natural Gas Act, and to apply to the facts of the instant proceeding its erroneous concept of the meaning and effect of said decisions. In so doing said Commission erred in failing to conclude that said decisions compel the legal conclusion that Phillips' sales of natural gas to the five pipe line companies and the transportation of natural gas in interstate commerce are not part of production and gathering within the meaning of Sec. 1(b).

VII.

THE COMMISSION HAS ERRED IN FAILING TO MAKE PROPER FINDINGS OF FACT AND CONCLUSIONS OF LAW ACCORDING TO STANDARDS LAID DOWN BY CONGRESS, [15 U. S. C. A. §717r (b), 4 F. C. A. title 15, 717r (b)] AS INTERPRETED BY THE UNITED STATES SUPREME COURT

The failure to make proper findings of fact in the respects specified herein, in and of itself constitutes error. *Colorado-Wyoming Gas Co. v. F. P. C.*, 324 U. S. 626, 634.

VIII.

THE COMMISSION ERRED IN ITS RULING LIMITING THE ISSUE TO THE SO-CALLED JURISDICTONAL ISSUE

The Commission erred in directing its Trial Examiner by its order of April 6, 1951, to exclude all evidence to determine whether any of Phillips' rates, subject to the Commission's jurisdiction, are unjust or unreasonable, and further erred in approving the exclusion of substantial evidence offered by the staff of the Commission at such hearing showing that Phillips' rates are in fact unjust and unreasonable, because such action of the Commission was arbitrary and capricious, contrary to law and in violation of the express terms of the Natural Gas Act.

WHEREFORE, your petitioners, jointly and severally, pray that the court review the orders of the Federal Power Commission in the latter's Docket G-1148 which are complained of, and that the court set aside such orders in their entirety.

Dated at Madison, Wisconsin, this 13th day of November, 1951.

STATE OF WISCONSIN

By WALTER J. KOHLER, JR. /s/
Walter J. Kohler, Jr., Governor

VERNON W. THOMSON /s/
Vernon W. Thomson, Attorney
General, and Its Attorney
of Record.

VERNON W. THOMSON,
Attorney General,

STEWART G. HONECK,
Deputy Attorney General,

Attorneys for State of Wisconsin.

P. O. Address:
State Capitol,
Madison, Wisconsin

PUBLIC SERVICE COMMISSION OF WISCONSIN

JOHN C. DOERFER /s/
John C. Doerfer, Commissioner

W. F. WHITNEY /s/
W. F. Whitney, Commissioner

JAMES R. DURFEE /s/
James R. Durfee, Commissioner

WILLIAM E. TORKELSON
Attorney for Public Service
Commission of Wisconsin

P. O. Address:
1 West Wilson Street,
Madison, Wisconsin

STATE OF WISCONSIN }
COUNTY OF DANE } ss.

WALTER J. KOHLER, Jr., being first duly sworn on oath says that he is the duly elected, qualified and acting Governor of the State of Wisconsin; that he makes this verification in behalf of said State, being duly authorized so to do; that he has read the foregoing petition and knows the contents thereof and believes it to be true; that the reason that this verification is made by affiant and not by the State of Wisconsin is that said State is one of the sovereign states of the United States and can act only through its duly authorized agents and officers.

WALTER J. KOHLER, JR. /s/
Walter J. Kohler, Jr.

Subscribed and sworn to before me this
13th day of November, A. D., 1951.

ELSIE ELLEFSON /s/
Notary Public, Dane Co., Wisconsin
My comm. expires April 27, 1952.
(NOTARIAL SEAL)

STATE OF WISCONSIN }
COUNTY OF DANE } ss.

VERNON W. THOMSON, being first duly sworn on oath says that he is the duly elected, qualified and acting Attorney General of the State of Wisconsin; that he makes this verification in behalf of said State, being duly authorized so to do; that he has read the foregoing petition and knows the contents thereof and believes it to be true; that the reason that this verification is made by affiant and not by the State of Wisconsin is that said State is one of the sovereign states of the United States and can act only through its duly authorized agents and officers.

VERNON W. THOMSON /s/
Vernon W. Thomson

Subscribed and sworn to before me this
13th day of November, A. D., 1951.

IONA FARRELL /s/
Notary Public, Dane Co., Wisconsin
My comm. expires March 1, 1953.
(NOTARIAL SEAL)

STATE OF WISCONSIN }
COUNTY OF DANE } SS.

JOHN C. DOERFER, W. F. WHITNEY and JAMES R. DURFEE, being each duly sworn on oath says for himself that he is a duly appointed, qualified and acting Commissioner of the Public Service Commission of Wisconsin; that he has read the foregoing petition, knows the contents thereof, and believes the same to be true.

JOHN C. DOERFER /s/
John C. Doerfer

W. F. WHITNEY /s/
W. F. Whitney

JAMES R. DURFEE /s/
James R. Durfee

Subscribed and sworn to before me this
13th day of November, A. D., 1951.

FREDA MILES /s/
Notary Public, Dane Co., Wisconsin
My comm. expires October 2, 1955.
(NOTARIAL SEAL)

PETITION OF CITY OF MILWAUKEE TO REVIEW AN ORDER OF THE FEDERAL POWER COMMISSION IN ITS DOCKET NO. G-1148 RELATING TO AN OPINION AND ORDER ENTERED BY THE COMMISSION ON AUGUST 16, 1951 (ORDER NO. 217, ISSUED AUGUST 22, 1951)

11,245

To the Honorable, the Judges of the United States Court of Appeals for the District of Columbia:

The City of Milwaukee files its petition under Section 19 of the Natural Gas Act to review and set aside an order of the Federal Power Commission dated August 16, 1951, and issued by said Federal Power Commission on August 22, 1951, in connection with the Federal Power Commission's opinion No. 217 and the Federal Power Commission's order terminating the proceedings initiated by said Commission's order of October 28, 1948, and from an order of the Federal Power Commission denying the petition and application of the above named petitioner, the City of Milwaukee, for rehearing, which latter order was dated September 22, 1951, and issued by the Federal Power Commission on September 28, 1951, all of which were and occurred in a proceedings entitled "In the Matter of Phillips Petroleum Company," Docket No. G-1148.

For its petition, the City of Milwaukee respectfully alleges as follows:

1. Identity of Petitioner

That at all times hereinafter mentioned, the City of Milwaukee was and now is a municipal corporation organized and existing under and by virtue of the laws of the State of Wisconsin; that the City of Milwaukee derives its powers from the State of Wisconsin and from the acts of the Legislature of such State; that among its powers it has a right to be represented by counsel in matters which involve the public interest; that it has a population of 632,651.

That the City of Milwaukee is a large purchaser of natural gas from the Milwaukee Gas Light Company, a local public utility; that such gas is consumed and used by the City of Milwaukee, and that the City of Milwaukee pays a consideration therefor to the Milwaukee Gas Light Company; that the rates of the Milwaukee Gas Light Company are in some part determined by the rates charged by Phillips Petroleum Company; that a decrease in the rates charged by Phillips Petroleum Company to the Michigan-Wisconsin Pipe Line Company may directly affect the rate to the City of Milwaukee; that the failure to regulate rates by the Federal Power Commission, therefore, has an effect upon the price of natural gas to the City of Milwaukee; that under the provisions of the Natural Gas Act (52 Stat. 833; title 15 U. S. C. 717-717W), Section 2 (3) thereof, a "municipality" is defined to mean a city; that a municipality under the provisions of Section 5 (a) of the Natural Gas Act may file a complaint with the Federal Power Commission respecting any rate, charge, or classification demanded, charged, or collected by any natural gas company in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission.

That under the provisions of Section 13 of the Natural Gas Act, a municipality complaining of anything done or omitted to be done by any natural gas company in contravention of the provisions of the Natural Gas Act may apply to the Federal Power Commission by petition; that the City of Milwaukee did properly intervene in the proceedings before the Federal Power Commission in the matter of Phillips Petroleum Company, Docket No. G-1148.

That as a further basis of interest in the above entitled proceedings and in the proceedings had before the Federal Power Commission, the City of Milwaukee demonstrates that it has many thousands of inhabitants daily purchasing natural gas from the Milwaukee Gas Light Company, a local utility, which utility purchases its gas from the Michigan-Wisconsin Pipe Line Company, the latter purchasing its gas from the Phillips Petroleum Company; that the public residing within the boundaries of the City of Milwaukee is affected by the rates charged by Phillips Petroleum Company, and that any decrease or increase in rates tends to affect the ultimate price of natural gas to the many thousands of consumers residing within the City of Milwaukee as aforesaid.

2. Nature of Proceedings As to Which Review is Sought

That on August 22, 1951, the Federal Power Commission, hereinafter referred to as the "Commission," issued an order in Docket No. G-1148, entitled "In the Matter of Phillips Petroleum Company," in which said Commission ordered as follows:

> "That the proceeding initiated by the Commission's order of October 28, 1948, in Docket No. G-1148 be, and the same hereby is, terminated.";

that said Commission found in said proceedings as follows:

> "(1) Phillips Petroleum Company is engaged in the 'production and gathering' of natural gas within the meaning of Section 1(b) of the Natural Gas Act.
>
> "(2) Phillips' movement of gas in interstate commerce and its sales thereof for resale in interstate commerce, together with its processing operations, all constitute a part of its gathering business, so that such movement, processing, and sales come within the exemption of production and gathering in Section 1(b) of the Act.
>
> "(3) Phillips Petroleum Company is not a 'natural-gas company' within the meaning of Sections 1(b) or 2(6) of the Natural Gas Act.";

that the City of Milwaukee properly and duly intervened in said proceedings before said Commission as aforesaid, and was allowed to intervene by action of said Commission; and that the City of Milwaukee has a vital and real interest in the proceedings and is vitally affected by the determination, ruling, and order of said Commission, and feels itself aggrieved thereby; that contrary to the provisions of law said Commission refused to accept jurisdiction of the subject matter of the proceedings in the matter of Phillips Petroleum Company, Docket No. G-1148, hereinbefore referred to.

That on August 22, 1951, as aforesaid, said Commission issued its opinion, No. 217, and its order hereinbefore referred to, and made the findings hereinbefore set forth; that the City of Milwaukee filed timely application and petition for rehearing as is provided for by the provisions of the Natural Gas Act, and that on September 28, 1951, with respect to such application and petition, said Commission ruled as follows:

> "(1) No facts and no principles of law have been presented in said applications or any of them which either were not fully considered by the Commission before it entered such opinion and order, or, having now been considered, justify a reversal or modification of the Commission's opinion and order.
>
> "(2) Good cause exists for denying said applications."

3. Facts and Statutes Upon Which Venue is Based

That venue is established by Section 19(b) of the Natural Gas Act, which provides that any party to a proceeding under the Natural Gas Act aggrieved by an order issued by the Commission in such proceeding may obtain a review of such order in the United States Court of Appeals for the District of Columbia by filing in such court within sixty (60) days after the order of the Commission, upon application for rehearing, and upon written petition praying that the order of the Commission be modified or set aside in whole or in part; that the City of Milwaukee feels itself aggrieved by the aforesaid order of the Commission, and that it therefore seeks a review of such order pursuant to said Act.

4. Relief Prayed For

Relief prayed for by your petitioner herein is that the aforesaid order of said Commission in Docket No. G-1148, dated August 16, 1951, and issued by the Commission on

August 22, 1951, denying said Commission has jurisdiction under the Natural Gas Act in the aforesaid proceedings, and the order of said Commission of September 27, 1951, issued September 28, 1951, in which said Commission denied the application and petition of the City of Milwaukee, for rehearing, be set aside in their entirety as being contrary to law.

5. The Points Upon Which Petitioner Intends to Rely

The points upon which the City of Milwaukee intends to rely in prosecution of its petition for review of the aforesaid order of said Commission are those stated in its joint application and petition for rehearing timely filed with said Commission, which will be part of the record and which will be certified and filed with this Court, as is provided for by the Natural Gas Act, and which application and petition for rehearing is incorporated into this petition by reference with the same force and effect as though physically and specifically included herein. A concise statement of the conclusions of said Commission in paragraphs (1), (2), and (3), page 69, Opinion No. 217, is as follows:

> "(1) Phillips Petroleum Company is engaged in the 'production and gathering' of natural gas within the meaning of Section 1(b) of the Natural Gas Act.
>
> "(2) Phillips' movement of gas in interstate commerce and its sales thereof for resale in interstate commerce, together with its processing operations, all constitute a part of its gathering business, so that such movement, processing, and sales come within the exemption of production and gathering in Section 1(b) of the Act.

"(3) Phillips Petroleum Company is not a 'natural-gas company' within the meaning of Sections 1(b) or 2(6) of the Natural Gas Act."

The Federal Power Commission has erred in making each of the statements or conclusions contained in paragraphs numbered (2) and (3), page 69 of Opinion No. 217, afore set out. The statements or conclusions in said paragraph numbered (1) afore set out, page 69 of Opinion No. 217, are erroneous, if it is intended in any way to imply that *all* of the activities of Phillips Petroleum Company fall in the category of "production or gathering" within the meaning of Section 1(b) of the Natural Gas Act.

The errors in the statements or conclusions afore set out and contained in said paragraphs (1), (2), and (3), page 69 of Opinion No. 217, are as follows:

(a) In concluding that the movement of natural gas in interstate commerce by Phillips Petroleum Company, its sales thereof for resale in interstate commerce, together with its processing operations "all constitute part of its gathering business or they are incidents of or activities related to such business, so that such movement, processing, and sales come within the exception of processing and gathering in section 1(b) of the Act."

(b) In concluding that the movement of natural gas in interstate commerce by Phillips Petroleum Company is part of the "gathering business" or an incident or activity related thereto.

(c) In concluding that the sale of natural gas by Phillips Petroleum Company to pipeline companies such as Michigan-Wisconsin Pipe Line Company and Cities Service

Gas Company and other pipeline companies mentioned in said Opinion, for purpose of resale, are part of the "gathering business" or an incident or activity related thereto.

(d) In concluding that the processing operations of Phillips Petroleum Company prior to the delivery and sale of natural gas to said pipeline companies is part of the "gathering business" or an incident or activity related thereto.

(e) In concluding that said movement, sales for resale and/or processing, either singly or together, come within the exception of production or gathering in Section 1(b) of the Natural Gas Act.

(f) In concluding that Phillips Petroleum Company is not a "natural-gas company" within the meaning of Section 1(b) or 2(6) of the Natural Gas Act.

The basis for and reasons relied on in support of the foregoing specifications of error are as follows:

1. That the aforesaid statements and conclusions of said Commission are contrary to law.

2. That the determination that "sales" are part of production or gathering is contrary to the evidence.

3. That the determination that jurisdiction over sales will interfere with state regulatory efforts is contrary to law.

4. That the determination that said Commission's jurisdiction will interfere with state regulation is contrary to evidence.

5. That the Commission erred as a matter of law in making an order terminating the proceedings.

6. That the provisions of the Natural Gas Act vest jurisdiction in said Commission.

That the foregoing represent the principal points upon which your petitioner urges and seeks relief so that the orders of the said commission previously referred to be reversed; that citations are omitted and subsidiary points and arguments relied upon are not included so as not to constitute this petition a brief, instead of a petition.

WHEREFORE, your petitioner prays that the Court review the complained of orders of the said Commission in the latter's Docket No. G--1148, and that the Court set aside such orders in their entirety.

Dated at Milwaukee, Wisconsin, this 8th day of November, 1951.

CITY OF MILWAUKEE,
a municipal corporation

By WALTER J. MATTISON
WALTER J. MATTISON,
City Attorney

HARRY G. SLATER,
First Assistant City Attorney

Attorneys for Petitioner
City of Milwaukee

801 City Hall
Milwaukee 2, Wisconsin

CHARLES S. RHYNE
National Institute of
Municipal Law Officers
730 Jackson Place, N. W.
Washington 6, D. C.

STATE OF WISCONSIN }
MILWAUKEE COUNTY } SS.

Walter J. Mattison, being first duly sworn, on oath deposes and says that he is an officer of the above named petitioner, City of Milwaukee, to-wit: its City Attorney, and makes this verification on its behalf, being thereunto duly authorized; that he has read the foregoing petition of the City of Milwaukee to review an order of the Federal Power Commission in its Docket No. G-1148, knows the contents thereof, and that the same is true of his own knowledge except as to matters therein stated on information and belief, and as to those matters he believes it to be true; that the source of his knowledge and the grounds of his belief are information obtained by affiant and statements made to him by servants and agents of said corporation, all in the regular course of their respective duties, and records on file in the above entitled proceedings. Affiant says further that the reason why this verification is not made by the City of Milwaukee is that said City is a municipal corporation.

Walter J. Mattison

Subscribed and sworn to before me
this 8th day of November, 1951.

Elsie W. Sutschek
Notary Public, Milwaukee County, Wis.
My commission expires Dec. 30-1951

(Notarial Seal)

PETITION OF CITY OF KANSAS CITY, MISSOURI, FOR REVIEW OF ORDER OF FEDERAL POWER COMMISSION

11,242

To the Honorable, the United States Court of Appeals for the District of Columbia Circuit, and to the Judges thereof:

The City of Kansas City, Missouri, hereinafter called the petitioner, believing itself adversely affected and aggrieved by the final Order of the Federal Power Commission, hereinafter referred to as "Respondent" or "Respondent Commission", issued August 22, 1951, entered in that certain cause bearing Docket No. G-1148, entitled: "In the Matter of Phillips Petroleum Company", then pending before said Respondent, respectfully petitions this Honorable Court to review and set aside such Order, and in support of its Petition, states:

I.

Petitioner is a municipal corporation duly organized and existing under the Laws of the State of Missouri, and is a "municipality" as defined by Section 2(3) of the Natural Gas Act (15 U. S. C. A., Sections 717, *et seq.*).

II.

Respondent is an administrative and regulatory body created by statute, derives its authority and jurisdiction herein under an Act of Congress known as the "Natural

Gas Act" (15 U. S. C. A., Sections 717, *et seq.*), and has its principal office and place of business in the City of Washington, District of Columbia.

III.

Phillips Petroleum Company, hereinafter referred to as "Phillips", is a Delaware corporation, with its principal office and place of business in Bartlesville, Oklahoma, and is the "natural-gas company" to which the Order relates that Respondent sought to be reviewed.

IV.

On October 28, 1948, Respondent ordered an investigation to determine whether Phillips is a "natural-gas company", as that term is defined by Sections 1(b) and 2(6) of the Natural Gas Act, and, if so, whether any of its rates, subject to the Respondent's jurisdiction are unjust or unreasonable. Petitioner intervened in such proceeding and showed that in 1950 Phillips sold in interstate commerce to Cities Service Gas Company, a "natural-gas company", for resale by it, more than 30 billion cubic feet of natural gas, and delivered such gas to Cities Service Gas Company in the State of Oklahoma. Some of this gas was sold and delivered to Petitioner and its inhabitants through the pipe lines of Cities Service Gas Company and the distribution system of The Gas Service Company, a local gas distributing company. The inhabitants of Petitioner also bought certain amounts of natural gas from Central West Utility Company, another local gas distributing company, which purchased such gas from Panhandle Eastern Pipe Line Company, a "natural-gas company", which in turn purchased in interstate commerce for resale and received large quantities of gas from Phillips in the States of Texas and Oklahoma.

In 1950, Phillips admittedly transported natural gas in interstate commerce and sold such gas to five "natural-gas companies" in interstate commerce for resale by such companies, including said Cities Service Gas Company and Panhandle Eastern Pipe Line Company.

Hearings before an Examiner of the Respondent were begun in Bartlesville, Oklahoma, on April 3, 1951, and concluded on May 23, 1951. The staff of Respondent alleged and were prepared to show that Phillips' rates for natural gas were excessive by several million dollars per year. By Respondent's Order of April 16, 1951, however, the Examiner was directed to confine the hearing to a determination of the first issue hereinbefore mentioned, namely, whether Phillips is a "natural-gas company", and that a further hearing relative to the remaining issues be held at a later date to be fixed by Respondent.

The transcript covers approximately 6000 pages, and 196 exhibits were received in evidence covering many additional thousands of pages.

Following the granting of an unopposed request by the Respondent's staff for omission of intermediate decision procedure, the entire Respondent Commission hear oral argument of the single issue, to-wit, whether Phillips is a "natural-gas company", for two days, July 9 and 10, 1951.

V.

As of August 22, 1951, Respondent found that Phillips is not a "natural-gas company", as defined by the Natural Gas Act, as more specifically set out in this Petition. A true copy of Respondent's Opinion and Order entered as of said August 22, 1951, marked "Exhibit A", is attached hereto and by reference made a part hereof. In the event Phillips is found by this Court to be a "natural-gas company", as defined by Sections 1(b) and 2(6) of the Natural Gas Act, Respondent will have jurisdiction to fix the maximum selling price which Phillips may charge for natural gas sold to the aforesaid interstate pipeline companies that sell and deliver such gas to the named distributing companies for resale to Petitioner and its inhabitants. The price of natural gas charged by Phillips to Cities Service Gas Company and to Panhandle Eastern Pipe Line Company is not now fixed by any regulatory authority.

Petitioner states that the Congress intended to protect the ultimate consumer of natural gas when it enacted the Natural Gas Act, but there is no such protection for the ultimate consumers of natural gas, such as Petitioner and its citizens, in the City of Kansas City, Missouri, if the price of gas sold by Phillips remains unregulated. Moreover, every cent paid for natural gas sold by Phillips to the aforesaid pipeline companies is reflected and passed on in the prices for gas charged the ultimate consumers thereof.

Hence, Petitioner is adversely affected and aggrieved by the aforesaid final Order of Respondent and is a proper party to petition this Court for review of the Respondent's Order under the provisions of Section 19(b) of the Natural

Gas Act, and Section 1009 of the Administrative Procedure Act (5 U. S. C. A., Sections 1001, *et seq.*).

VI.

As of August 22, 1951, Respondent made and entered its Order which contained concluding findings, reading as follows:

> (1) Phillips Petroleum Company is engaged in the "production and gathering" of natural gas within the meaning of Section 1(b) of the Natural Gas Act.
>
> (2) Phillips' movement of gas in interstate commerce and its sales thereof for resale in interstate commerce, together with its processing operations, all constitute a part of its gathering business, or they are incidents of or activities related to such business, so that such movement, processing, and sales come within the exemption of production and gathering in Section 1(b) of the Act.
>
> (3) Phillips Petroleum Company is not a "natural-gas company" within the meaning of Sections 1(b) or 2(6) of the Natural Gas Act.
>
> Respondent also entered the following Order:
>
> That the proceeding initiated by the Commission's order of October 28, 1948, in Docket No. G-1148 be, and the same hereby is, terminated.

Chairman Wallgreen and Commissioners Smith and Wimberly concurred in the findings and Order, Commissioner Draper concurred in the result and filed a short concurring opinion, and Commissioner Buchanan filed a lengthy dissenting opinion.

VII.

On September 10, 1951, in form and manner and within the time prescribed by the applicable rules and regulations of the Commission, and Section 19(a) of the Natural Gas Act, Petitioner filed with Respondent its "Petition of Intervener Kansas City for Rehearing, Reconsideration and Vacation of the Opinion and Order of the Commission Herein, Issued August 22, 1951."

Thereafter, similar applications for rehearing of Respondent's Opinion and Order issued August 22, 1951, were filed by other interveners, as follows: By the City of Milwaukee, Wisconsin, on September 12, 1951; by the State of Wisconsin and Public Service Commission of Wisconsin on September 17, 1951; and by the City of Detroit, Michigan, and Wayne County, Michigan, on September 19, 1951; that thereafter on September 28, 1951, Petitioner's said Petition for Rehearing of said Order of August 22, 1951, was denied, and all of the said applications for rehearing of the other interveners were likewise denied by Respondent; that thereby and thereafter the said Order of Respondent of August 22, 1951, became fixed and is now a final order and judgment of said Respondent; that Petitioner is adversely affected and aggrieved thereby, for the reasons herein stated; and that Petitioner has exhausted its remedies before said Respondent and, therefore, now seeks review of said final Order and judgment of said Respondent Commission, all in form and manner as permitted and prescribed by Section 19 of the Natural Gas Act.

VIII.

The jurisdiction and authority of this Court is invoked under Section 19(b) of the Natural Gas Act aforesaid.

IX.

SPECIFICATIONS OF ERRORS

Respondent Commission, in its said findings and Order, committed errors in the following particulars, upon each of which Petitioner intends to reply:

1. The Commission erred as a matter of law by ordering the above proceeding to be terminated, because there is substantial evidence on the record that Phillips Petroleum Company (Phillips) is a "natural-gas company" as defined by the Natural Gas Act and, therefore, the Commission does in fact and in law have jurisdiction of Phillips in this proceeding.

2. The Commission erred in failing to find that Phillips is a "natural-gas company" as defined by the Natural Gas Act and as such is subject to the jurisdiction of the Commission under such Natural Gas Act, because the record shows and Phillips admits on the record that it is engaged in the transportation of natural gas in interstate commerce and also in the sale in interstate commerce of such gas for resale, and, therefore, Phillips is in fact and in law a "natural-gas company" and subject to the jurisdiction of the Commission.

3. The Commission erred in its formal Finding No. (1) that Phillips is engaged in the "production and gathering"

of natural gas within the meaning of Section 1(b) of the Natural Gas Act, indicating thereby that Phillips is exempt from the provisions of the Natural Gas Act, whereas the record shows that Phillips' operations are not confined to the "production and gathering" of natural gas but Phillips is engaged in the transportation of natural gas in interstate commerce and in the sale in interstate commerce of such gas for resale.

4. The Commission erred in its formal Finding No. (2) that Phillips' movement of gas in interstate commerce and its sales thereof for resale in interstate commerce, together with its processing operations, all constitute a part of its "gathering" business, or they are incidents of or activities related to such business, so that such movement, processing, and sales come within the exemption of "production and gathering" in Section 1(b) of the Natural Gas Act, because such finding is contrary to and not supported by substantial evidence on the record and is contrary to the law appertaining thereto.

5. The Commission erred in its formal Finding No. (3) that Phillips is not a "natural-gas company" within the meaning of Sections 1(b) or 2(6) of the Natural Gas Act because such finding is not supported by substantial evidence on the record and is contrary to the law appertaining thereto.

6. The Commission erred in its conclusion that the background and legislative history of the Natural Gas Act did not encompass the activities of companies whose operations are confined to "production and gathering", including the movement and sale of gas as a part of that business, and that Phillips was such a company, because such a con-

clusion is contrary to fact and in violation of the express terms of the Natural Gas Act.

7. The Commission erred in its finding that Phillips' operations, so far as relevant, consist of "production and gathering", or they are incidents of or activities related to these functions, thus requiring their inclusion within the exemption of the Natural Gas Act, because such finding is not supported by substantial evidence on the record and is contrary to law.

8. The Commission erred in its finding that Phillips' processing at its various plants and the movement of gas by Phillips to these plants constitute "gathering" within the meaning of Section 1(b) of the Natural Gas Act, because such finding is not supported by substantial evidence on the record and is contrary to law.

9. The Commission erred in its conclusion that the movement of gas through each of the Phillips' processing plants is a part of Phillips' "gathering" business or is at least exempt as an incident of or an activity related to its "gathering" process, because such conclusion is not supported by substantial evidence on the record and is contrary to law.

10. The Commission erred in holding that the movement of gas through certain large diameter pipe lines leading to Phillips' processing plants is exempt from the provisions of the Natural Gas Act on the ground that such lines leading to such plants served the function of "gathering" and that the movement of gas through these lines and the lines themselves are exempt under the Natural Gas Act, because such conclusions are not supported by substantial evidence on the record and are contrary to law.

11. The Commission erred in its finding that the sales of gas made a short distance after the gas moves through Phillips' processing plants are the end product of "production and gathering" and are a part of Phillips' "gathering" business, or at least an exempt incident thereof, because such finding is not supported by substantial evidence on the record and is contrary to law.

12. The Commission erred in its finding that such sales of natural gas are so closely connected with the local incidents of the process of "production and gathering" as to render rate regulation by the Commission inconsistent or a substantial interference with the exercise by the affected states of their regulatory functions, because such finding is not supported by substantial evidence on the record and is contrary to law.

13. The Commission erred in its finding that the Commission's regulation of sales made by Phillips in the process of "production and gathering" of natural gas would, by its very nature, be inconsistent or constitute a substantial interference with such regulation of producers and gatherers by the States of Oklahoma, Texas and New Mexico, because such finding is not supported by substantial evidence on the record and is contrary to law.

14. The Commission erred in failing to find that Phillips' sales of gas to the five interstate pipe lines, to-wit: Panhandle Eastern Pipe Line Company, Michigan-Wisconsin Pipe Line Company, Independent Natural Gas Company, El Paso Natural Gas Company and Cities Service Gas Company, were made after the completion of "production and gathering", because there was substantial evidence on the record to support such a finding, and under

the provisions of the Natural Gas Act such finding should have been made.

15. The Commission erred in failing to find that sales of gas made by Phillips to the aforesaid five interstate pipe lines did not and never had created a conflict of interference with the exercise by the affected states of their regulatory functions, because there was substantial evidence on the record to support such a finding, and under the provisions of the Natural Gas Act such a finding should have been made.

16. The Commission erred in its finding that the fixing of maximum rates for the sales of natural gas made by a producer thereof under the Natural Gas Act would run counter to state conservation efforts, through the fixing of minimum well-head prices or otherwise, to insure maximum recovery of gas prior to abandonment of the well, because such finding is not supported by substantial evidence on the record and is contrary to law.

17. The Commission erred in directing its Trial Examiner by its order of April 6, 1951, to exclude all evidence to determine whether any of Phillips' rates, subject to the Commission's jurisdiction, are unjust or unreasonable, and further erred in approving the exclusion of substantial evidence offered by the staff of the Commission at such hearing showing that Phillips' rates are in fact unjust and unreasonable, because such action of the Commission was arbitrary and capricious, contrary to law and in violation of the express terms of the Natural Gas Act.

X.

Respondent also erred in overruling and denying said "Petition of Intervener Kansas City for Rehearing, Reconsideration and Vacation of the Opinion and Order of the Commission Herein, Issued August 22, 1951."

WHEREFORE, Petitioner respectfully prays:

(1) That upon the filing hereof, the Clerk of this Court serve copy of this petition upon the Honorable Thomas C. Buchanan, Acting Chairman of the Respondent Federal Power Commission, and command said Commission, within forty (40) days from the date thereof, to certify and file with this Court transcript of the record upon which the Order complained of was entered, including all pleadings, orders, transcript of testimony, exhibits, findings, conclusions and Order of the Commission of date August 22, 1951, Petitioner's petition for rehearing, and Order denying said petition for rehearing, all in form and manner prescribed by law.

(2) That on final hearing and determination hereof, the said findings, conclusions and Order of said Respondent Commission of date August 22, 1951, be in all things set aside, reversed and held for naught; and that respondent Phillips Petroleum Company be held by this Court to be a "natural-gas company" within the meaning of the aforesaid Natural Gas Act, and, therefore, subject to the jurisdiction of Respondent Commission.

(3) For such other and further relief as shall appear to be just and equitable in the premises.

/s/ DAVID M. PROCTOR
David M. Proctor
City Counselor

/s/ JEROME M. JOFFEE
Jerome M. Joffee
Special Utilities and
Legislative Counsel

Attorneys for City of
Kansas City, Missouri,
Petitioner.

AFFIDAVIT

STATE OF MISSOURI } SS
COUNTY OF JACKSON }

Jerome M. Joffee, of lawful age, being first duly sworn, upon his oath states that he is Special Utilities and Legislative Counsel for Petitioner City of Kansas City, Missouri, and as such is duly authorized to and makes this affidavit for and on its behalf; that he has read the within and foregoing Petition for Review and that the facts set out therein are true, according to the best of his knowledge, information and belief.

/s/ JEROME M. JOFFEE

Subscribed and sworn to before me this 8th day of November, 1951.

/s/ MAURICE E. BENSON
Notary Public within
and for Jackson County,
Missouri

My commission expires February 4, 1955.

PETITION OF THE CITY OF DETROIT, MICHIGAN, FOR REVIEW OF ORDER OF FEDERAL POWER COMMISSION

11,241

To the Honorable, the United States Court of Appeals for the District of Columbia Circuit, and to the Judges thereof:

The City of Detroit, a municipal corporation of the State of Michigan, hereinafter called the "Petitioner," believing itself adversely affected and aggrieved by the final Order of the Federal Power Commission, hereinafter called the "Respondent," issued August 22, 1951, entered in that certain cause bearing Docket No. G-1148, entitled: "In the Matter of Phillips Petroleum Company," then pending before Respondent, respectfully petitions this Honorable Court to review and set aside such Order, and in support of its Petition, states:

I

Petitioner is a municipal corporation duly organized and existing under the Laws of the State of Michigan, and is a "municipality" as defined by Section 2(3) of the Natural Gas Act (15 U. S. C. A., Sections 717, *et seq.*).

II

Respondent is an administrative and regulatory body created by statute, derives its authority and jurisdiction herein under an Act of Congress known as the "Natural Gas Act" (15 U. S. C. A., Sections 717, *et seq.*), and has its principal office and place of business in the City of Washington, District of Columbia.

III

Phillips Petroleum Company, hereinafter referred to as "Phillips", is a Delaware corporation, with its principal office and place of business in Bartlesville, Oklahoma, and is the "natural-gas company" to which the Order relates that Respondent sought to be reviewed.

IV

On October 28, 1948, Respondent ordered an investigation to determine whether Phillips is a "natural gas company," as that term is defined by sections 1(b) and 2(6) of the Natural Gas Act, and, if so, whether any of its rates, subject to the Respondent's jurisdiction are unjust and unreasonable. Petitioner intervened in such proceeding and showed that in 1950 Phillips sold in interstate commerce to Michigan-Wisconsin Pipe Line Company, a "natural gas company," for resale by it, more than several million cubic feet of natural gas, and delivered such gas to Michigan-Wisconsin Pipeline Company in the State of Oklahoma. Some of this gas was sold and delivered to Petitioner and its inhabitants through the pipe lines of Michigan-Wisconsin Pipe Line Company and the distribution system of the Michigan Consolidated Gas Company, a local gas distributing company. The inhabitants of Petitioner also bought certain amounts of natural gas from Michigan Consolidated Gas Company, which purchased such gas from Panhandle

Eastern Pipe Line Company, a "natural gas company", which in turn purchased in interstate commerce for resale and received large quantities of gas from Phillips in the States of Texas and Oklahoma.

In 1950, Phillips admittedly transported natural gas in interstate commerce and sold such gas to five "natural gas companies" in interstate commerce for resale by such companies, including said Michigan - Wisconsin Pipeline Company and Panhandle Eastern Pipe Line Company.

Hearings before an Examiner of the Respondent were begun in Bartlesville, Oklahoma, on April 3, 1951, and concluded on May 23, 1951. The staff of Respondent alleged and were prepared to show that Phillips' rates for natural gas were excessive by several million dollars per year. By Respondent's Order of April 16, 1951, however, the Examiner was directed to confine the hearing to a determination of the first issue hereinbefore mentioned, namely, whether Phillips is a "natural gas company," and that a further hearing relative to the remaining issues be held at a later date to be fixed by Respondent.

The transcript covers approximately 6000 pages, and 196 exhibits were received in evidence covering many additional thousands of pages.

Following the granting of a request by the Respondent's staff for omission of intermediate decision procedure (Counsel for this Petitioner not having participated in favor of such request; not having consented to such request nor condoned the same), the entire Respondent Commission heard oral argument of the single issue, to-wit, whether Phillips is a "natural gas company," for two days, July 9 and 10, 1951.

V

As of August 22, 1951, Respondent found that Phillips is not a "natural gas company," as defined by the Natural Gas Act, as more specifically set out in this Petition. A true copy of Respondent's Petition and Order entered as of said August 22, 1951, Marked "Exhibit A", is attached hereto and by reference made a part hereof. In the event Phillips is found by this Court to be a "natural gas company," as defined by Sections 1(b) and 2(6) of the Natural Gas Act, Respondent will have jurisdiction to fix the maximum selling price which Phillips may charge for natural gas sold to the aforesaid interstate pipeline companies that sell and deliver such gas to the named distributing company for resale to Petitioner and its inhabitants. The price of natural gas charged by Phillips to Michigan Consolidated Gas Company and to Panhandle Eastern Pipe Line Company is not now fixed by any regulatory authority.

Petitioner states that the Congress intended to protect the ultimate consumer of natural gas when it enacted the Natural Gas Act, but there is no such protection for the ultimate consumers of natural gas, such as Petitioner and its citizens, in the City of Detroit, Michigan, if the price of gas sold by Phillips remains unregulated. Moreover, every cent paid for natural gas sold by Phillips to the aforesaid pipe line companies is reflected and passed on in the prices for gas charged the ultimate consumers thereof.

Hence, Petitioner is adversely affected and aggrieved by the aforesaid final Order of Respondent and is a proper party to petition this Court for review of the Respondent's Order under the provisions of Section 19(b) of the Natural

Gas Act, and Section 1009 of the Administrative Procedure Act (5 U. S. C. A., Sections 1001, *et seq.*).

VI

As of August 22, 1951, Respondent made and entered its Order which contained concluding findings reading as follows:

> (1) Phillips Petroleum Company is engaged in the "production and gathering" of natural gas within the meaning of Section 1(b) of the Natural Gas Act.
>
> (2) Phillips' movement of gas in interstate commerce and its sale thereof for re-sale in interstate commerce, together with its processing operations, all constitute a part of its gathering business, or they are incidents of or activities related to such business, so that such movement, processing, and sales come within the exemption of production and gathering in Section 1(b) of the Act.
>
> (3) Phillips Petroleum Company is not a "natural gas company" within the meaning of Sections 1(b) or 2(6) of the Natural Gas Act.

Respondent also entered the following Order:

> That the proceedings initiated by the Commission's Order of October 28, 1948, in Docket No. G-1148, be and the same is, terminated.

Chairman Wallgren and Commissioners Smith and Wimberly concurred in the findings and Order, Commissioner Draper concurred in the result and filed a short concurring opinion, and Commissioner Buchanan filed a lengthy dissenting opinion.

VII

On September 18, 1951, in form and manner and within the time prescribed by the applicable rules and regulations of the Commission, and Section 19(a) of the Natural Gas Act, Petitioner filed with Respondent its "Petition of Intervenor City of Detroit for Rehearing, Reconsideration and Vacation of the Opinion and Order of the Commission Herein, Issued August 22, 1951."

Similar applications for rehearing of Respondent's Opinion and Order issued August 22, 1951, were filed by other intervenors, as follows: By the City of Milwaukee, Wisconsin, on September 12, 1951; by the State of Wisconsin and Public Service Commission of Wisconsin on September 17, 1951; and by the City of Kansas City, Missouri, on September 19, 1951, and Wayne County, Michigan, on September 19, 1951; that thereafter on September 28, 1951, Petitioner's said Petition for Rehearing of said Order of August 22, 1951, was denied, and all of the said applications for rehearing of the other intervenors were likewise denied by Respondent; that thereby and thereafter the said Order of Respondent of August 22, 1951, became fixed and is now a final Order and judgment of said Respondent; that Petitioner is adversely affected and aggrieved thereby, for the reasons herein stated; and that Petitioner has exhausted its remedies before said Respondent, and, therefore, now seeks review of said final Order and Judgment of said

Respondent Commission, all in form and manner as permitted and prescribed by Section 19 of the Natural Gas Act.

VIII

The jurisdiction and authority of this Court is invoked under Section 19(b) of the Natural Gas Act aforesaid.

IX

SPECIFICATION OF ERRORS

Respondent Commission, in its said findings and Order, committed errors in the following particulars, upon each of which Petitioner intends to rely:

1. The Commission erred as a matter of law by ordering the above proceeding to be terminated, because there is substantial evidence on the record that Phillips Petroleum Company (Phillips) is a "natural gas company" as defined by the Natural Gas Act, and, therefore, the Commission does in fact and in law have jurisdiction of Phillips in this proceeding.

2. The Commission erred in failing to find that Phillips is a "natural gas company" as defined by the Natural Gas Act and as such is subject to the jurisdiction of the Commission under such Natural Gas Act, because the record shows and Phillips admits on the record that it is engaged in the transportation of natural gas in interstate Commerce and also in the sale in interstate commerce of

such gas for resale, and, therefore, Phillips is in fact and in law a "natural gas company" and subject to the jurisdiction of the Commission.

3. The Commission erred in its formal Finding No. (1) that Phillips is engaged in the "production and gathering" of natural gas within the meaning of Section 1(b) of the Natural Gas Act, indicating thereby that Phillips is exempt from the provisions of the Natural Gas Act, whereas the record shows that Phillips' operations are not confined to the "production and gathering" of natural gas but Phillips is engaged in the transportation of natural gas in interstate commerce and in the sale in interstate commerce of such gas for resale.

4. The Commission erred in its formal Finding No. (2) that Phillips' movement of gas in interstate commerce, and its sales thereof for resale in interstate commerce, together with its "gathering" business, or they are incidents of or activities related to such business, so that such movement, processing, and sales come within the exemption of "production and gathering" in Section 1(b) of the Natural Gas Act, because such finding is contrary to and not supported by substantial evidence on the record and is contrary to the law appertaining thereto.

5. The Commission erred in its formal Finding No. (3) that Phillips is not a "natural gas company" within the meaning of Sections 1(b) or 2(6) of the Natural Gas Act because such finding is not supported by substantial evidence on the record and is contrary to the law appertaining thereto.

6. The Commission erred in its conclusions that the background and legislative history of the Natural Gas Act

did not encompass the activities of companies whose operations are confined to "production and gathering", including the movement and sale of gas as a part of that business, and that Phillips was such a company, because such a conclusion is contrary to fact and in violation of the express terms of the Natural Gas Act.

7. The Commission erred in its finding that Phillips' operations, so far as relevant, consist of "production and gathering", or they are incidents of or activities related to these functions, thus requiring their inclusion within the exemption of the Natural Gas Act, because such finding is not supported by substantial evidence on the record and is contrary to law.

8. The Commission erred in its finding that Phillips' processing at its various plants and the movement of gas by Phillips to these plants constitute "gathering" within the meaning of Section 1(b) of the Natural Gas Act, because such finding is not supported by substantial evidence on the record and is contrary to law.

9. The Commission erred in its conclusion that the movement of gas through each of the Phillips' processing plants is a part of Phillips' "gathering" business or is at least exempt as an incident of or an activity related to its "gathering" process, because such conclusion is not supported by substantial evidence on the record and is contrary to law.

10. The Commission erred in holding that the moving of gas through certain large diameter pipe lines leading to Phillips' processing plants is exempt from the provisions of the Natural Gas Act on the ground that such lines leading

to such plants served the function of "gathering" and that the movement of gas through these lines and the lines themselves are exempt under the Natural Gas Act, because such conclusions are not supported by substantial evidence on the record and are contrary to law.

11. The Commission erred in its finding that the sales of gas made a short distance after the gas moves through Phillips' processing plants are the end product of "production and gathering" and are a part of Phillips' "gathering" business, or at least an exempt incident thereof, because such finding is not supported by substantial evidence on the record and is contrary to law.

12. The Commission erred in its finding that such sales of natural gas are so closely connected with the local incidents of the process of "production and gathering" as to render rate regulation by the Commission inconsistent or a substantial interference with the exercise by the affected states of their regulatory functions, because such finding is not supported by substantial evidence on the record and is contrary to law.

13. The Commission erred in its finding that the Commission's regulation of sales made by Phillips in the process of "production and gathering" of natural gas would, by its very nature, be inconsistent or constitute a substantial interference with such regulation of producers and gatherers by the States of Oklahoma, Texas and New Mexico, because such finding is not supported by substantial evidence on the record and is contrary to law.

14. The Commission erred in failing to find that Phillips' sales of gas to the five interstate pipe lines, to-

wit: Panhandle Eastern Pipe Line Company, Michigan-Wisconsin Pipe Line Company, Independent Natural Gas Company, El Paso Natural Gas Company and Cities Service Gas Company, were made after the completion of "production and gathering", because there was substantial evidence on the record to support such a finding, and under the provisions of the Natural Gas Act such finding should have been made.

15. The Commission erred in failing to find that sales of gas made by Phillips to the aforesaid five interstate pipe lines did not and never had created a conflict of interference with the exercise by the affected states of their regulatory functions, because there was substantial evidence on the record to support such a finding, and under such provisions of the Natural Gas Act such a finding should have been made.

16. The Commision erred in its finding that the fixing of maximum rates for the sales of natural gas made by a producer thereof under the Natural Gas Act would run counter to state conservation efforts, through the fixing of minimum well-head prices or otherwise, to insure maximum recovery of gas prior to abandonment of the well, because such finding is not supported by substantial evidence on the record and is contrary to law.

17. The Commission erred in directing its Trial Examiner by its order of April 6, 1951, to exclude all evidence to determine whether any of Phillips' rates, subject to the Commission's jurisdiction, are unjust or unreasonable, and further erred in approving the exclusion of substantial evidence offered by the staff of the Commission at such hearing showing that Phillips' rates are in fact unjust and

unreasonable, because such action of the Commission was arbitrary and capricious, contrary to law and in violation of the express terms of the Natural Gas Act.

18. The Commission erred by invoking a procedural device termed "Omission of Intermediate Decision" and therefore deprived the Petitioner of a full and fair hearing, contrary to law and the provisions of the Natural Gas Act and the Administrative Procedure Act in such cases made and provided.

The Commission designated Edward B. Marsh as the Trial Examiner, who, for a period of 39 days, conducted the hearing at Bartlesville, Oklahoma. He was not accompanied by any member or members of the Commission, so that he was the sole trier of the issues in the case. (In effect he was the Federal Power Commission in the matter. (Section 15 Natural Gas Act)). On July 27, 1951, four of the five members of the Commission, by some sort of vote, caused to be issued a "Release" announcing did not follow any Findings of Fact; rather it preceded the determination of fact and as of date August 15, 1951, no findings had been made or filed by the Commission (see Opinion No. 217 dated August 16, 1951). The major issue of the case is whether Phillips is a "natural gas company" within the provisions of the Natural Gas Act. This question is to be resolved in the light of facts and these facts, in turn, are determinable upon the testimony of witnesses who appeared before the Trial Examiner and testified. In this case the Trial Examiner did not make any Findings of Fact. He was relieved of that task and duty by an Order of the Commission which, in effect, is the process by which the Commission usurps the jurisdiction of the Trial Examiner to decide the facts from the evidence adduced at the trial, hearing or investigation.

The Findings of Fact, Conclusions of Law, and the Order contained in and made a part of Opinion No. 217, aforesaid, were promulgated by the majority of the Commission in an arbitrary and capricious manner, beyond the scope of their authority and contrary to the principles of law and the Constitution of the United States, in that "due process of law" was not followed and administered by the Commission in the course of the conduct of the hearing and investigation affecting said matter, and the Petitioner has been deprived thereby of its statutory right to a full and fair hearing. Section 14 of the Natural Gas Act is the statutory authority for the conduct of investigations (52 Stat. 828 (1938); 15 U. S. C. 717-n is the authority for hearings. As a Trial Examiner was designated, as provided by Section 15(a), it must be presumed that the proceeding thus conducted was a "hearing" which, as a matter of law, required that "the one who decides must hear" (Morgan v. United States, 298 U. S. 468). Contrary to the laws of the United States, the Commission, without power so to do, removed the matter from the hands of the Trial Examiner, who had been designated by it; and thereafter undertook to hear arguments of counsel, to make an alleged Finding of Fact, and Conclusions of Law thereon. The Natural Gas Act does not prescribe such a procedure and no power is delegated to the Commission to assume such legislative authority as to enable it to do so.

By reason of the method used by this Commission to decide that it did not have jurisdiction of Phillips, the Findings of Fact upon the evidence, by the Trial Examiner, (who heard the testimony, and by virtue thereof, was the only competent person to make such a finding from the mass of conflicting testimony adduced before him) was dispensed with by the Commission by invoking a procedural device termed "Omission of Intermediate Decision", thereby depriving Petitioner of a full and fair hearing.

X

Respondent also erred in overruling and denying said "Petition of Intervenor City of Detroit for Rehearing, Reconsideration and Vacation of the Opinion and Order of the Commission herein, issued August 22, 1951."

CONCLUSION

WHEREFORE, Petitioner respectfully prays:

(1) That upon the filing hereof, the Clerk of this Court serve copy of this petition upon the Honorable Thomas C. Buchanan, Acting Chairman of the Respondent Federal Power Commission, and command said Commission, within forty (40) days from the date thereof, to certify and file with this Court transcript of the record upon which the Order complained of was entered, including all pleadings, orders, transcript of testimony, exhibits, findings, conclusions and Order of the Commission of date August 22, 1951, Petitioner's petition for rehearing, and Order denying said petition for rehearing, all in form and manner prescribed by law.

(2) That on final hearing and determination hereof, the said findings, conclusions and Order of said Respondent

Commission of date August 22, 1951, be in all things set aside, reversed and held for naught; and that respondent Phillips Petroleum Company be held by this Court to be a "natural gas company" within the meaning of the aforesaid Natural Gas Act, and, therefore, subject to the jurisdiction of Respondent Commission.

(3) For such other and further relief as shall appear to be just and equitable in the premises.

CITY OF DETROIT
A municipal corporation of the
State of Michigan,
Petitioner,

Attorneys for said
Petitioner
301 City Hall
Detroit 26, Michigan
Telephone: WOodward 3-9640

(signed) PAUL T. DWYER,
Paul T. Dwyer
Acting Corporation Counsel

(signed) JAMES H. LEE,
James H. Lee
Assistant Corporation Counsel

AFFIDAVIT

STATE OF MICHIGAN }
COUNTY OF WAYNE } SS.

JAMES H. LEE of the City of Detroit, Wayne County, Michigan, being duly sworn, deposes and says that he is an Assistant Corporation Counsel of the City of Detroit, a municipal corporation of the State of Michigan, and as such is attorney for the City of Detroit, Michigan, a municipal corporation of the State of Michigan, petitioner herein; that he is authorized to sign the foregoing petition for and and behalf of said petitioner and that he did so sign same; that he knows the contents thereof and that the same is true of his own knowledge except as to those matters therein stated to be upon information and belief, and as to those matters, he believes it to be true.

Further dependent saith not.

James H. Lee
James H. Lee
Assistant Corporation Counsel

Subscribed and sworn to before me
This 12th day of November, A. D.
1951.

Gordon N. McKee

Notary Public, Wayne County, Michigan (SEAL)
My commission expires March 23, 1954.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MOTION OF PHILLIPS PETROLEUM COMPANY FOR LEAVE TO INTERVENE

Phillips Petroleum Company (hereinafter referred to as "Phillips") respectfully moves, pursuant to the Rule 38(c) of this Court, for leave to intervene, to be heard upon brief and oral argument and otherwise to participate fully in this proceeding as a party in support of the orders of the Federal Power Commission (hereinafter referred to as "Commission") which petitioners seek to have reviewed and set aside in this proceeding. In support of this motion, Phillips respectfully states:

I.

Phillips is a corporation organized and existing under the laws of the State of Delaware, with its principal operating office in Bartlesville, Oklahoma.

II.

The Commission action sought to be reviewed in this proceeding directly affects Phillips. The proceeding below was styled "In the Matter of the Phillips Petroleum Company, Docket No. G-1148," and was instituted by an order of the Commission dated October 28, 1948, which provided in part:

> "The Commission, upon its own motion, *orders* that:
>
> An investigation of Respondent, Phillips Petroleum Company, be and hereby is instituted for the purpose of enabling the Commission:
>
> (A) To determine with respect to the Respondent:
>
> (i) Whether it is a natural-gas company within the meaning of the Natural Gas Act; and
>
> (ii) Whether, in connection with any transportation or sale of natural gas, subject to the jurisdiction of the Commission, any rates, charges, or classifications demanded, ob-

> served, charged, or collected, or any rules, regulations, practices or contracts affecting such rates, charges, or classifications are unjust, unreasonable, unduly discriminatory, or preferential; and
>
> (B) If it shall find, after hearing, that the Respondent is a natural-gas company within the meaning of the Natural Gas Act, and that any of Respondent's rates, charges, classifications, rules, regulations, practices, or contracts, subject to the jurisdiction of the Commission, are unjust, unreasonable, unduly discriminatory or preferential, to determine and fix by order or orders just and reasonable, nondiscriminatory or nonpreferential rates, charges, classifications, rules, regulations, practices, or contracts to be thereafter observed and in force."

Hearings in said proceeding were begun before an Examiner of the Commission on April 3, 1951, and concluded May 23, 1951. By order dated April 16, 1951, the Commission directed that the hearing be limited initially to the issue of whether Phillips is a " 'natural-gas company' within the meaning of the Natural Gas Act," and that a further hearing as to the remaining issues be held later, if necessary. Counsel for Phillips participated in the proceeding before the Examiner and filed briefs and made an oral argument before the Commission. The record before the Commission included approximately 6,000 pages of oral testimony and 196 exhibits.

In its Opinion and Order No. 217, dated August 16, 1951, issued August 22, 1951, the Commission found:

> "(1) Phillips Petroleum Company is engaged in the 'production and gathering' of natural gas within

the meaning of Section 1(b) of the Natural Gas Act.

(2) Phillips' movement of gas in interstate commerce and its sales thereof for resale in interstate commerce, together with its processing operations, all constitute a part of its gathering business, or they are incidents or activities related to such business, so that such movement, processing, and sales come within the exemption of production and gathering in Section 1(b) of the Act.

(3) Phillips Petroleum Company is not a 'natural-gas company' within the meaning of Sections 1(b) or 2(6) of the Natural Gas Act."

Pursuant thereto the Commission ordered:

"That the proceeding initiated by the Commission's order of October 28, 1948, in Docket No. G-1148 be, and the same hereby is, terminated."

Petitioners herein thereafter filed with the Commission a petition for rehearing. That petition was denied by the Commission by an order dated September 27, 1951, and issued September 28, 1951.

III.

Petitioners have filed in this Court a petition to review and set aside (a) the order of the Commission dated August 16, 1951 and issued on August 22, 1951, holding that Phillips is not a "natural-gas company" and that its sales of natural gas and other natural gas operations are not subject to regulation by the Commission, and (b) the order of the Commission of September 28, 1951, denying petitioners' petition for rehearing. The petition herein asks this Court to determine generally that Phillips is a "natural-gas company" within the meaning of the Natural Gas Act, and, as such, subject to the jurisdiction of the Commission under said Act and, more specifically, to determine that certain of Phillips' sales of natural gas are subject to regulation by the Commission.

IV.

The relief sought by petitioners, if granted, would substantially and directly affect Phillips and its operations. Phillips, therefore, has a direct and immediate interest in the outcome of this proceeding which is not completely represented by any other party.

WHEREFORE, Phillips respectfully moves this Court for leave to intervene, to be heard on oral argument and on brief and otherwise to participate fully in this proceeding as a party in support of the orders which petitioners seek to have reviewed and set aside.

Respectfully submitted,

HUGH B. COX
Union Trust Building
Washington 5, D. C.

RAYBURN L. FOSTER
HARRY D. TURNER
WARREN M. SPARKS
KENNETH HEADY
c/o Phillips Petroleum Company
Bartlesville, Oklahoma

Attorneys for
Phillips Petroleum Company

Dated: January 25, 1952

CERTIFICATE OF SERVICE

The undersigned, attorney for Phillips Petroleum Company, hereby certifies that on January 28, 1952, he served a copy of the foregoing motion to intervene upon each of the parties of record in this proceeding by duly mailing a copy thereof by registered mail, properly addressed and with postage prepaid, to counsel of record for each of said parties as follows:

Bradford Ross, Esq.
General Counsel for Federal Power Commission
1800 Pennsylvania Avenue, N. W.
Washington 6, D. C.

William E. Torkelson, Esq.
1 W. Wilson Street
Madison, Wisconsin
Attorney for the State of Wisconsin,
Petitioner

Stewart G. Honeck, Esq.
State Capital
Madison, Wisconsin
Attorney for Public Service Commission,
Petitioner.

HUGH B. COX
Attorney for
Phillips Petroleum Company

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11,247 JANUARY TERM, 1952

State of Wisconsin and Public
Service Commission of Wisconsin,
Petitioners,

v.

Federal Power Commission,
Respondent.

No. 11,241 JANUARY TERM, 1952

City of Detroit, Michigan,
Petitioner,

v.

Federal Power Commission,
Respondent.

No. 11,242 JANUARY TERM, 1952

City of Kansas City, Missouri,
Petitioner,

v.

Federal Power Commission,
Respondent.

No. 11,245 JANUARY TERM, 1952

City of Milwaukee, Wisconsin,
a municipal corporation,
Petitioner,

v.

Federal Power Commission,
Respondent.

No. 11,252 JANUARY TERM, 1952

County of Wayne, Michigan,
Petitioner,
v.
Federal Power Commission,
Respondent.

Before: Stephens, Chief Judge, in Chambers

ORDER

Upon consideration of the motion of Phillips Petroleum Company for leave to intervene in the above-entitled cases, to be allowed to file a brief and to be allowed to argue therein, and respondent having informed the Clerk of this Court by letter that it has no objection thereto and it appearing that none of the petitioners herein have filed objections to said motion, it is

ORDERED that the motion be, and it is hereby, granted.

Dated: FEB 9 - 1952

United States Court of Appeals
For the
District of Columbia Circuit

FILED FEB 9 1952

JOSEPH W. STEWART
Clerk

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MOTION OF STATE OF NEW MEXICO, ET AL. FOR LEAVE TO INTERVENE

Comes now the State of New Mexico, and the Oil Conservation Commission, of the State of New Mexico, by its attorneys, Attorney General, Joe L. Martinez, and Peter N. Chumbris, Special Assistant Attorney General, State of New Mexico, and respectfully move, pursuant to the Rule 38(c) of this Court, for leave to intervene, to be heard upon brief and oral argument and otherwise to participate fully in this proceeding as a party in support of the order of the Federal Power Commission which petitioner seeks to have reviewed and set aside in this proceeding. In support of this motion, State of New Mexico, Et al, respectfully state:

I.

That the Oil Conservation Commission is an agency of the State of New Mexico.

II.

The Federal Power Commission action sought to be reviewed in this proceeding affects the State of New Mexico, and the Oil Conservation Commission. The proceeding below was styled IN THE MATTER OF THE PHILLIPS PETROLEUM COMPANY, DOCKET NO. G-1148 AND WAS INSTITUTED BY AN ORDER OF THE FEDERAL

POWER COMMISSION DATED OCTOBER 28, 1948. The State of New Mexico, and the Oil Conservation Commission of the State of New Mexico, filed a motion for leave to intervene and were permitted to intervene in said matter below.

Hearings in said proceeding were begun before an Examiner of the Commission on April 3, 1951, and concluded May 23, 1951. By order dated April 16, 1951, the Commission directed that the hearing be limited initially to the issue of whether the Phillips Petroleum Company is a natural gas company within the meaning of the Natural Gas Act, and that a further hearing as to the remaining issues to be held later, if necessary. Counsel for the State of New Mexico, Et al, participated in the proceeding before the Examiner and filed briefs and made an oral argument before the Federal Power Commission. The record before the Commission included approximately 125 pages of oral testimony and exhibits.

In its Opinion and Order No. 217, dated August 16, 1951, issued August 22, 1951, The Federal Power Commission found that it did not have jurisdiction over independent producers and gatherers of natural gas. The petitioners, State of Wisconsin and Public Service Commission of Wisconsin, thereafter filed with the Federal Power Commission a petition for rehearing. That petition was denied by the Federal Power Commission by an order dated September 27, 1951, and issued September 28, 1951.

III.

The petitioners have filed in this Court a petition to review and set aside (a) the order of the Federal Power Commission dated August 16, 1951 and issued on August 22, 1951; and (b) the order of the Federal Power Commission of September 28, 1951, denying the petitioners petition for rehearing. The petition herein asks this Court to determine generally that Phillips Petroleum Company is a natural gas Company within the meaning of the Natural Gas Act.

IV.

The State of New Mexico and the Oil Conservation Commission of the State of New Mexico, contended in the proceeding below that they were constitutionally competent to regulate independent producers and gatherers of natural gas of which Phillips Petroleum Company was one, and that in view of the decision in the Inter-State Natural Gas Company, v. Federal Power Commission, 331 U. S. 682, the State of New Mexico, Et al, intervened to substantiate that contention which was upheld in the Opinion of the Federal Power Commission.

V.

The relief sought by the petitioners, if granted, would affect the jurisdiction of the Oil Conservation Commission over independent producers and gatherers of natural gas, of which Phillips Petroleum Company is one and, therefore, the State of New Mexico and the Oil Conservation Commission of the State of New Mexico, have a direct and immediate interest in the outcome of this proceeding which is not completely represented by any other party.

WHEREFORE, the State of New Mexico and the Oil Conservation Commission of the State of New Mexico, respectfully move this Court for leave to intervene, to be heard on oral argument and on brief and otherwise to participate fully in this proceeding as a party in support of the order which the petitioners seek to have reviewed and set aside.

Respectfully submitted,

Joe L. Martinez
JOE L. MARTINEZ
Attorney General
State of New Mexico
Santa Fe, New Mexico

Peter N. Chumbris
Special Assistant Attorney General
State of New Mexico
322 West Gold Avenue
Albuquerque, New Mexico

Dated January 31, 1952.

CERTIFICATE OF SERVICE

The undersigned, attorney for State of New Mexico and the Oil Conservation Commission of the State of New Mexico, hereby certifies that on February 1, 1952, he served a copy of the foregoing motion to intervene upon each of the parties of record in this proceeding by duly mailing a copy thereof, properly addressed and with postage prepaid, to counsel of record for each of said parties as follows:

Bradford Ross, Esq.
General Counsel for Federal Power Commission
1800 Pennsylvania Avenue, N. W.
Washington 6, D. C.

Stewart G. Honeck, Esq.
Attorney for State of Wisconsin,
William E. Torkelson, Esq.
Attorney for Public Service Commission,
State Capital
Madison, Wisconsin
Petitioners.

/s/ Peter N. Chumbris
PETER N. CHUMBRIS
Special Assistant Attorney General
State of New Mexico, for
State of New Mexico, Et al.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11,247 JANUARY TERM, 1952

State of Wisconsin and Public
Service Commission of Wisconsin,
Petitioners,

v.

Federal Power Commission,
Respondent.

Phillips Petroleum Company,
Intervenor.

No. 11,241 JANUARY TERM, 1952

City of Detroit, Michigan,
Petitioner,
v.
Federal Power Commission,
Respondent.

Phillips Petroleum Company,
Intervenor.

No. 11,242 JANUARY TERM, 1952

City of Kansas City, Missouri,
Petitioner,
v.
Federal Power Commission,
Respondent.

Phillips Petroleum Company,
Intervenor.

No. 11,245 JANUARY TERM, 1952

City of Milwaukee, Wisconsin,
a municipal corporation,
Petitioner,
v.
Federal Power Commission,
Respondent.

Phillips Petroleum Company,
Intervenor.

No. 11,252 JANUARY TERM, 1952

County of Wayne, Michigan,
Petitioner,
v.

Federal Power Commission,
Respondent.

Phillips Petroleum Company,
Intervenor.

Before: Stephens, Chief Judge and Proctor and Bazelon, Circuit Judges, in Chambers

ORDER

Upon consideration of the motion of the State of New Mexico and the Oil Conservation Commission of the State of New Mexico for leave to intervene in the above-entitled cases, to be allowed to file a brief and to be allowed to argue therein, and respondent having informed the Clerk of this Court by letter that it has no objection thereto and it appearing that none of the petitioners herein have filed objections to said motion, it is

ORDERED by the Court that the motion be, and it is hereby, granted.

Dated: MAR 3 - 1952

Per Curiam.

United States Court of Appeals
For the
District of Columbia Circuit

FILED MAR 3 - 1952

JOSEPH W. STEWART
Clerk

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

MOTION OF THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA FOR LEAVE TO INTERVENE

The Corporation Commission of the State of Oklahoma (hereinafter referred to as "Corporation Commission") moves the Court, pursuant to Rule 38(c) of this Court, for leave to intervene, to file briefs and to otherwise participate fully in the above proceedings as a party in support of the orders of the Federal Power Commission which petitioners seek to have reviewed and set aside and in support of said motion respectfully alleges:

1. The Corporation Commission is an agency of the State of Oklahoma created by the Constitution of said State and has, among other things, the duty, power and authority to regulate the production and gathering of natural gas for the purpose of preventing waste and protecting the correlative property rights of common owners.

2. The review of the orders of the Federal Power Commission sought by petitioners would directly and materially affect the Corporation Commission in the discharge of its duties to regulate the production and gathering of natural gas.

3. The orders sought to be reviewed were entered in a proceeding before the Federal Power Commission styled, "In the Matter of Phillips Petroleum Company, Docket No. G-1148." The issue adjudicated in said proceeding was whether certain sales of natural gas by Phillips Petroleum Company (hereinafter referred to as "Phillips") and its

operations in connection therewith rendered Phillips a "natural gas company" under the Natural Gas Act and subjected said sales and operations to the jurisdiction and regulation of the Federal Power Commission.

4. Certain of the sales of Phillips involved in said proceeding were sales of gas produced in the State of Oklahoma, namely, sales to Panhandle Eastern Pipe Line Company, Michigan - Wisconsin Pipe Line Company and Cities Service Gas Company. (See Exhibits 9(a), 11(a) and 52.) As to all gas produced in Oklahoma and so sold to said companies, this Corporation Commission regulates the spacing, drilling and plugging of the wells, the production of the gas (and oil, if any), the ratable taking of the gas, the gathering, marketing and utilization of the gas under a comprehensive system of conservation statutes, rules and regulations. (See Exhibits 162, 162-A to 162-R incl.)

5. A portion of the gas sold by Phillips to Panhandle Eastern Pipe Line Company and to Michigan-Wisconsin Pipe Line Company is produced from the Guymon-Hugoton Field located in Texas County, Oklahoma. The Guymon-Hugoton Field is a part of the largest single gas reservoir in the United States which extends from the State of Kansas through the Oklahoma Panhandle into the State of Texas and from which several hundred wells are producing natural gas.

The Corporation Commission after public hearing on the 9th day of December, 1946, entered an order (Exhibit 120) fixing a price of 7¢ per thousand cubic feet as the minimum price which must be realized by the producer at the wellhead for gas produced in the Guymon-Hugoton

Field. The validity of said order was sustained by the Supreme Court of Oklahoma on January 17, 1950, against attacks by Cities Service Gas Company and Phillips Petroleum Company (220 P. 2d 279). Appeals were taken to the Supreme Court of the United States, which on December 11, 1950, likewise affirmed the validity of said order in *Cities Service Gas Company* v. *Peerless Oil and Gas Company,* 340 U. S. 179, and *Phillips Petroleum Company* v. *State of Oklahoma,* 340 U. S. 190.

6. The gas sold by Phillips to Cities Service Gas Company is casinghead gas produced from the West Edmond Field located in Oklahoma. Pursuant to authority vested in the Corporation Commission by Title 52 O. S., §286.1 *et seq.*, the Commission, after notice and hearing, on the 29th day of July, 1947, entered an order approving the unitization of the West Edmond Hunton Lime Unit. (See Exhibit 52.)

By virtue of said unitization and order, the owners of the numerous oil and gas leases covering the field no longer own the production from their segregated tracts, but in lieu thereof receive a pro rata share of the oil and gas produced from the Unit. Sohio Petroleum Company is the operator of the Unit. By contract with the Unit, Phillips and other owners of two gasoline plants located in the field gather the gas from the wells, process it for its gasoline content and deliver the residue gas to the purchasers (Cities Service Gas Company being one) for the account of the Unit Owners. Phillips is one of the Unit Owners by virtue of its original ownership of leases covered by the unitization. (See Exhibit 52.)

7. This Corporation Commission intervened in the proceeding before the Federal Power Commission *contending that* the sales of Phillips, insofar as they involved gas produced within the State of Oklahoma, were not subject to the jurisdiction of said Commission for the reason that said sales fell within the exception of such jurisdiction stated by the Supreme Court of the United States in *Interstate Natural Gas Company* v. *Federal Power Commission*, 331 U. S. 682, 91 L. ed. 1742, 68 S. Ct. 30, in the following language:

> "Thus, where sales, though technically consummated in interstate commerce, are made during the course of production and gathering and are so closely connected with the local incidents of that process as to render rate regulation by the Federal Power Commission inconsistent or a substantial interference with the exercise by the State of its regulatory functions, the jurisdiction of the Federal Power Commission does not attach."

8. At the hearing before the Federal Power Commission, Ray C. Jones, a member of this Commission, and Elmer Capshaw, a petroleum and natural gas engineer in the employ of this Commission for 17 years, testified in support of its position. The Corporation Commission filed a written brief with the Federal Power Commission, and the Attorney General of Oklahoma made an oral argument in support of its contentions when the matter was heard by the Federal Power Commission sitting en banc on July 9 and 10, 1951.

9. In its Opinion and Order No. 217 dated August 16, 1951, issued August 22, 1951, the Federal Power Commis-

sion found that Phillips was not a "natural gas company" within the meaning of the Natural Gas Act, and dismissed the proceeding. As one ground for said conclusion and order the Commission found:

> "In addition to the conclusions we have already reached, the evidence in this case supplies still another type of barrier to our regulation of Phillips' sales. Though technically consummated in interstate commerce, these sales are made 'during the course of production and gathering.' And we expressly find that they are so closely connected with the local incidents of that process as to render rate regulation by this Commission inconsistent or a substantial interference with the exercise by the affected States of their regulatory functions."

Commissioner Draper in a special concurring opinion agreed with this ground of the Commission's decision saying:

> "The second ground for the majority decision is its finding that inconsistency or substantial interference with state regulation would result from regulation of Phillips' sales by this Commission. I agree with this finding. My exhaustive study of the record in this case convinces me that there would clearly result a conflict of the sort contemplated by the language used in the Interstate opinion. Since this is so, as the Court said in that case, 'The jurisdiction of the Federal Power Commission does not attach.' "

10. Petitioners have filed in this Court petitions to review and set aside the order of the Federal Power Commission holding that Phillips is not a "natural gas company" and that its sales of natural gas and other natural gas oper-

ations, including those in the State of Oklahoma, are not subject to regulation by the Federal Power Commission. Said petitions in effect ask this Court to determine that Phillips' sales of gas to Panhandle Eastern Pipe Line Company, Michigan-Wisconsin Pipe Line Company and Cities Service Gas Company and certain of its pipe line operations are subject to regulation by the Federal Power Commission. The regulation by the Federal Power Commission of said sales or of any of the operations of Phillips conducted in connection therewith in the State of Oklahoma would constitute a substantial interference with the exercise of the power of the State of Oklahoma through this Corporation Commission to regulate the production and gathering of such gas. Such regulation would directly interfere with the power of, and its exercise by, the State of Oklahoma through this Corporation Commission to fix and determine the prices at which gas can be produced from wells located within the State for the purpose of preventing economic and physical waste of natural gas and protecting the correlative property rights of all persons interested in common sources of supply. The Federal Power Commission's fixing of the prices to be received by Phillips from such sales would be inconsistent with and constitute a substantial interference with the power of, and its exercise by, the State of Oklahoma through this Corporation Commission to promulgate and enforce rules, regulations and orders relating to the production and gathering of natural gas within the State of Oklahoma for the purpose of preventing or minimizing waste and protecting correlative property rights of owners in common sources of supply. Thus, the relief sought by petitioners, if granted, would substantially and directly affect this Corporation Commission in the discharge of its powers and duties and it therefore has a direct and immediate interest in the outcome of these proceedings which is not completely represented by any other party.

WHEREFORE, the Corporation Commission of the State of Oklahoma respectfully moves this Court for leave to intervene in these proceedings, to file briefs therein, and to otherwise participate fully as a party in support of the orders which petitioners seek to have reviewed and set aside.

Respectfully submitted,

/s/ MAC Q. WILLIAMSON
Mac Q. Williamson
Attorney General for the
State of Oklahoma
State Capitol Building
Oklahoma City, Oklahoma

/s/ FLOYD GREEN
Floyd Green
Conservation Attorney for
the State of Oklahoma
State Capitol Office Building
Oklahoma City, Oklahoma

/s/ J. PAULL MARSHALL
J. Paul Marshall
Union Trust Building
Washington 5, D. C.

Attorneys for the Corporation
Commission of the State of
Oklahoma

CERTIFICATE OF SERVICE

The undersigned, attorney for the Corporation Commission of the State of Oklahoma, hereby certifies that on the 9th day of April, 1952, he served a copy of the foregoing motion to intervene upon each of the parties of record in these proceedings by duly mailing a copy thereof by depositing the same in the United States mail, properly addressed and with postage prepaid, to counsel of record for each of said parties as follows:

Bradford Ross
General Counsel for Federal Power Commission
1800 Pennsylvania Avenue, N. W.
Washington 6, D. C.

William E. Torkelson
1 W. Wilson Street
Madison, Wisconsin
Attorney for the State of Wisconsin,
Petitioner

Stewart G. Honeck
State Capitol
Madison, Wisconsin
Attorney for Public Service Commission
Petitioner

James H. Lee
Assistant Corporation Counsel
301 City Hall
Detroit 26, Michigan
Attorney for City of Detroit, Michigan,
Petitioner

David M. Proctor
City Counselor

2800 City Hall
Kansas City, Missouri
Attorney for City of Kansas City, Missouri,
Petitioner

Walter J. Mattison
City Attorney
801 City Hall
Milwaukee 2, Wisconsin
Attorney for City of Milwaukee, Wisconsin,
Petitioner

Gerald K. O'Brien
Prosecuting Attorney, County of Wayne
3400 Guardian Building
Detroit 26, Michigan
Attorney for Petitioner

Hugh B. Cox
701 Union Trust Building
Washington 5, D. C.
Attorney for Phillips Petroleum Company,
Intervener

Rayburn L. Foster
c/o Phillips Petroleum Company
Bartlesville, Oklahoma
Attorney for Phillips Petroleum Company,
Intervener

Harry D. Turner
c/o Phillips Petroleum Company
Bartlesville, Oklahoma
Attorney for Phillips Petroleum Company,
Intervener

Warren M. Sparks
c/o Phillips Petroleum Company

Bartlesville, Oklahoma
Attorney for Phillips Petroleum Company
Intervener

Price Daniel
Attorney General for the State of Texas
Charles E. Crenshaw
Everett Hutchinson
Assistant Attorneys General for the State of Texas
Capitol Station
Austin, Texas
Attorneys for Railroad Commission of Texas,
Intervener

Joe L. Martinez
Attorney General for the State of New Mexico
Santa Fe, New Mexico
Attorney for Oil Conservation Commission
of the State of New Mexico
Intervener

/s/ J. Paull Marshall
Attorney for the
Corporation Commission of the
State of Oklahoma

IN THE
UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

ANSWER OF STATE OF WISCONSIN AND PUBLIC SERVICE COMMISSION OF STATE OF WISCONSIN TO MOTION OF THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA FOR LEAVE TO INTERVENE

Come now the petitioners in No. 11,247, the State of Wisconsin and the Public Service Commission of Wisconsin, by the undersigned, their attorneys, and pursuant to Rules 31 (b) and (g) of this court, and 6 (e) of the Federal Rules of Civil Procedure, for their joint answer to the motion for leave to intervene of the Corporation Commission of the State of Oklahoma, and deny and allege as follows:

1. Respecting the allegations of paragraph 2 of said motion specifically deny that the review of the orders of the Federal Power Commission sought by petitioners would directly and materially affect said Corporation Commission in the discharge of its duties to regulate the production and gathering of natural gas.

2. Respecting the allegations of paragraph 7 of said motion, admit that said Corporation Commission intervened in the proceeding before the Federal Power Commission and made the contention that the sales of Phillips, insofar as they involved gas production within the State of Oklahoma, were not subject to the jurisdiction of the said Federal Power Commission, for the reasons alleged therein; but specifically deny that the sales in question fell within the exception of such jurisdiction as stated by the supreme court of the United States in *Interstate Natural Gas Company v. Federal Power Commission,* 331 U. S. 682. Allege that said sales as a matter of constitutional law are beyond the regulatory powers of the State of Oklahoma, and deny that such sales are encompassed within the words "production and gathering" as used in sec. 1 (b) of the Natural Gas Act. Deny that the sales in interstate commerce of natural gas to the five pipe line companies involved in this proceeding for resale for ultimate public consumption are sales of the type mentioned by the supreme court

in the *Interstate* case, quoted in paragraph 7 of the motion of the proposed intervenor. Alleges that the efforts of a state to conserve natural gas cannot be sustained where it amounts to a regulation of interstate commerce. *Pennsylvania v. West Virginia* (1923), 262 U. S. 553.

3. Respecting the allegations of paragraph 8 of said motion, alleges that the most that was claimed by Oklahoma's witnesses was by Ray C. Jones, member of the Corporation Commission, who testified that regulation of rates of interstate sales "might" conflict with orders of the Oklahoma Commission fixing a minimum price (7-cents Mcf) at the wellhead in the Guymon-Hugoton Field (R. 4533), but conceded that if the Power Commission fixed a rate in excess of that minimum, there would be no conflict. The 7-cent minimum is met when 3-cents of the liquid hydrocarbons are extracted from each Mcf and the residue sold for any price in excess of 4-cents Mcf. Sales by Phillips to Panhandle Eastern at Hansford Plant, which includes gas originating in Oklahoma, at 4.67-cents Mcf have not been declared to be in violation of law. See Exhibit 120-A. Sales to Michigan-Wisconsin Pipeline Company in 1950 are at an average of 8.17-cents Mcf.

4. Respecting the allegations of paragraph 10 of said motion, deny that regulation by the Federal Power Commission of the sales in question in the State of Oklahoma would constitute a substantial interference with the exercise of the power of the State of Oklahoma through the movant Corporation Commission to regulate the production and gathering of gas. Deny that such regulation would directly interfere with the power of, or the exercise by, the State of Oklahoma through movant Commission to fix

and determine the prices at which gas can be produced from wells located within said state for the purpose of preventing economic and physical waste of natural gas and protecting the correlative property rights of all persons interested in common sources of supply. Deny that the regulation of rates by the Federal Power Commission for the sales in question would be inconsistent with or constitute a substantial interference with the power of or exercise of power by the State of Oklahoma in the respects set forth in said paragraph 10, and in answer thereto repeats and incorporates into this paragraph by reference the allegations set forth in the preceding paragraph 3 hereof.

Wherefore, the State of Wisconsin and the Public Service Commission of Wisconsin move this court for an order denying the motion of the Corporation Commission of the State of Oklahoma to intervene herein.

Respectfully,

VERNON W. THOMSON /s/
Vernon W. Thomson, Attorney General of
Wisconsin

STEWART G. HONECK /s/
Stewart G. Honeck, Deputy Attorney
General of Wisconsin

Attorneys for Petitioner, State of Wisconsin

WILLIAM E. TORKELSON /s/
William E. Torkelson, Chief Counsel
Public Service Commission of
Wisconsin

Attorney for Petitioner, Public Service
Commission of Wisconsin

April 15, 1952

MOTION OF THE STATE OF TEXAS THROUGH THE RAILROAD COMMISSSION OF TEXAS FOR LEAVE TO INTERVENE

Comes now the State of Texas through the Railroad Commission of Texas represented by Price Daniel, the Attorney General of Texas, and respectfully moves this Honorable Court, pursuant to Rule 38(c), for leave to intervene, to be heard upon brief and oral argument and to participate fully in these proceedings as a party in support of the order of the Federal Power Commission sought to be reviewed and set aside by Petitioners herein. In support of its motion, the Railroad Commission of Texas respectfully shows:

I.

The Railroad Commission of Texas is a governmental agency of the State of Texas, created and existing under the Constitution and laws of the State of Texas, having the power, duty and responsibility to regulate the common carriers and gas utilities doing business within the State and having jurisdiction, authority and responsibility to administer the laws of the State relating to conservation and prevention of waste of natural gas and petroleum and the protection of correlative property rights. The members of the Railroad Commission at the present time are Olin Culberson, Chairman, W. J. Murray, Jr., and Ernest O. Thompson.

II.

The matters involved in Federal Power Commission order in Docket No. G-1148, sought to be reviewed and set aside herein by Petitioners, directly affect the powers, duties and responsibilities of the Railroad Commission of Texas. In the hearings below the Railroad Commission of Texas filed a Motion For Leave To Intervene and was permitted to do so. The Railroad Commission of Texas, after being permitted to intervene in the hearings below, took an active part in the hearings, introducing evidence showing that any action by the Federal Power Commission asserting jurisdiction over Phillips Petroleum Company would amount to a substantial interference with the duties, powers and jurisdiction of the Railroad Commission of Texas. In support of its position, the Railroad Commission of Texas filed briefs and made oral argument before the Federal Power Commission. At the completion of the hearing, filing of briefs and oral argument, the Federal Power Commission in its opinion and order No. 217, dated August 16, 1951, issued August 22, 1951, found that it did not have jurisdiction over Phillips Petroleum Company. Petitioners have filed in this Court a petition to review and set aside (a) the order of the Federal Power Commission dated August 16, 1951, and issued on August 22, 1951, and (b) the order of the Federal Power Commission of September 28, 1951, denying petition for rehearing. Further, the petitioners herein ask this Honorable Court to determine generally that the Phillips Petroleum Company is a natural gas company within the meaning of the Natural Gas Act.

III.

The Railroad Commission of Texas has an interest in the above entitled proceeding to the extent that the same relates to the production, transportation, use, conservation and prevention of waste, of natural gas within the State of Texas, and the protection of correlative property rights. The relief sought by Petitioners herein, if granted, would substantially interfere with the power of the State of Texas to regulate through the Railroad Commission of Texas the production and gathering of gas. The regulation of prices or sales of gas produced in Texas by Phillips Petroleum Company or other like producers or gatherers of natural gas are not subject to the jurisdiction of the Federal Power Commission in that such sales, though technically consummated in interstate commerce, are made during the course of production and gathering and are so closely connected with production and gathering as to render regulation by the Federal Power Commission inappropriate and a substantial interference with the regulatory functions of the Railroad Commission.

IV.

The State of Texas through its Railroad Commission therefore is directly and vitally concerned over the issues and questions involved in these proceedings. The interest of the State of Texas is not completely represented by any other party herein.

WHEREFORE, the State of Texas through its Railroad Commission of Texas, respectfully moves this Honorable

Court for leave to intervene herein, to be heard on brief and to be permitted to participate fully in these proceedings as a party in support of the Federal Power Commission order which Petitioners seek to have reviewed and set aside.

Respectfully submitted,

J. PAULL MARSHALL
J. Paull Marshall
Union Trust Building
Washington 5, D. C.

PRICE DANIEL
Attorney General of the
State of Texas

CHARLES E. CRENSHAW
Executive Assistant
Attorney General
Capitol Station
Austin, Texas

Attorneys for the Railroad
Commission of Texas

Dated: April 10, 1952

CERTIFICATE OF SERVICE

The undersigned, attorney for the Railroad Commission of Texas, hereby certifies that on April 10, 1952, he served a copy of the foregoing motion to intervene upon each of the parties of record in this proceeding by duly mailing a copy thereof by registered mail, properly addressed with postage prepaid, to counsel of record for each of said parties as follows:

Bradford Ross
General Counsel for Federal Power Commission
1800 Pennsylvania Avenue, N. W.
Washington 6, D. C.

William E. Torkelson
1 W. Wilson Street
Madison, Wisconsin
Attorney for the State of Wisconsin,
Petitioner

Stewart G. Honeck
State Capitol
Madison, Wisconsin
Attorney for Public Service Commission
Petitioner

James H. Lee
Assistant Corporation Counsel
301 City Hall
Detroit 26, Michigan
Attorney for City of Detroit, Michigan,
Petitioner

David M. Proctor
City Counselor
2800 City Hall
Kansas City, Missouri
Attorney for City of Kansas City, Missouri,
Petitioner

Walter J. Mattison
City Attorney
801 City Hall
Milwaukee 2, Wisconsin
Attorney for City of Milwaukee, Wisconsin,
Petitioner

Gerald K. O'Brien
Prosecuting Attorney, County of Wayne

3400 Guardian Building
Detroit 26, Michigan
Attorney for Petitioner.

Hugh B. Cox
701 Union Trust Building
Washington 5, D. C.
Attorney for Phillips Petroleum Company
Intervener

Rayburn L. Foster
c/o Phillips Petroleum Company
Bartlesville, Oklahoma
Attorney for Phillips Petroleum Company
Intervener

Harry D. Turner
c/o Phillips Petroleum Company
Bartlesville, Oklahoma
Attorney for Phillips Petroleum Company
Intervener

Warren M. Sparks
c/o Phillips Petroleum Company
Bartlesville, Oklahoma
Attorney for Phillips Petroleum Company
Intervener

Mac Q. Williamson
Attorney General for the State of Oklahoma
State Capitol Building
Oklahoma City, Oklahoma

Floyd Green
Conservation Attorney for the State of Oklahoma
State Capitol Office Building
Oklahoma City, Oklahoma
Attorneys for the Corporation Commission of
the State of Oklahoma
Intervener

Joe L. Martinez
Attorney General
State of New Mexico
Santa Fe, New Mexico

Peter N. Chumbris
Special Assistant Attorney General
State of New Mexico
322 West Gold Avenue
Albuquerque, New Mexico
Attorneys for State of New Mexico, et al.
Intervener

J. PAULL MARSHALL
J. Paull Marshall
Union Trust Building
Washington 5, D. C.

Attorney for the Railroad
Commission of Texas

IN THE
UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11,247

State of Wisconsin and Public
Service Commission of Wisconsin
Petitioners,

v.

Federal Power Commission,
Respondent

No. 11,241

City of Detroit, Michigan
Petitioner,
v.
Federal Power Commission
Respondent.

No. 11,242

City of Kansas City, Missouri
Petitioner,
v.
Federal Power Commission,
Respondent

No. 11,245

City of Milwaukee,
a municipal corporation
Petitioner,
v.
Federal Power Commission
Respondent.

No. 11,252

County of Wayne, Michigan
Petitioner,
v.
Federal Power Commission,
Respondent

STIPULATION WITH RESPECT TO THE MOTIONS TO INTERVENE OF THE STATE OF TEXAS THROUGH ITS RAILROAD COMMISSION AND THE CORPORATION COMMISSION OF THE STATE OF OKLAHOMA AND THE MOTIONS OF THE STATE OF WISCONSIN AND ITS PUBLIC SERVICE COMMISSION TO DISMISS THE AFORESAID MOTIONS TO INTERVENE

1. The State of Texas through its Railroad Commission and the Corporation Commission of the State of Oklahoma have petitioned to intervene in the foregoing proceeding and the State of Wisconsin and its Public Service Commission have moved to dismiss the aforesaid motion to intervene.

2. It is agreed by the parties that the withdrawal by the State of Wisconsin and its Public Service Commission of their motions to dismiss the motions to intervene shall not in any way constitute an admission by the State of Wisconsin or its Public Service Commission of the truth of the allegations in the aforesaid motions to intervene, or in any way be determinative of the merits of this proceeding on appeal.

3. It is further agreed that the State of Wisconsin and its Public Service Commission do hereby withdraw their motions to dismiss the aforesaid motions of the States of Texas and Oklahoma to intervene and will not object to the grant of such motions.

Vernon W. Thomson
Attorney General

By CHARLES S. RHYNE /s/
Charles S. Rhyne

Attorneys for the State of Wisconsin

William E. Torkelson
Chief Counsel

By CHARLES S. RHYNE /s/
Charles S. Rhyne

Attorneys for the Public Service
Commission of Wisconsin

Price Daniel
Attorney General

Charles E. Crenshaw
Executive Assistant Attorney General

By J. PAULL MARSHALL /s/
J. Paull Marshall

Attorneys for the Railroad
Commission of Texas

Mac Q. Williamson
Attorney General

Floyd Green
Conservation Attorney for the
State of Oklahoma

By J. PAULL MARSHALL /s/
J. Paull Marshall

Attorneys for the Corporation Commission of the State of Oklahoma

BRADFORD ROSS /s/
Bradford Ross

General Counsel Federal Power
Commission

Attorney for the Respondent

ERNEST W. JENNES /s/
Ernest W. Jennes

Attorney for Phillips Petroleum
Company
Intervener

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing Stipulation With Respect To The Motions To Intervene of the State of Texas Through Its Railroad Commission and the Corporation Commission of the State of Oklahoma and the Motions of the State of Wisconsin and its Public Service Commission to Dismiss the Aforesaid Motions to Intervene by mailing a copy thereof to each of the following persons at the respective addresses hereinafter specified.

James H. Lee
Assistant Corporation Counsel
301 City Hall
Detroit 26, Michigan
Attorney for City of Detroit, Michigan
Petitioner

David M. Proctor
City Counselor
2800 City Hall
Kansas City, Missouri
Attorney for City of Kansas City, Missouri
Petitioner

Walter J. Mattison
City Attorney
801 City Hall
Milwaukee 2, Wisconsin
Attorney for City of Milwaukee, Wisconsin
Petitioner

Charles S. Rhyne
730 Jackson Place, N. W.
Washington 6, D. C.
Attorney for County of Wayne, Michigan
Petitioner

Joe L. Martinez
Attorney General
State of New Mexico
Santa Fe, New Mexico

Peter N. Chumbris
Special Assistant Attorney General
State of New Mexico
322 West Gold Avenue
Albuquerque, New Mexico

Attorneys for State of New Mexico, et al
Interveners

Dated at Washington, D. C., May 6, 1952

Charles S. Rhyne /s/
Charles S. Rhyne
730 Jackson Place, N. W.
Washington 6, D. C.

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11,247 APRIL TERM, 1952

State of Wisconsin and Public
Service Commission of Wisconsin,
Petitioners,
v.
Federal Power Commission,
Respondent,
Phillips Petroleum Company,
Intervenor,
State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

No. 11,241 APRIL TERM, 1952

City of Detroit, Michigan,
Petitioner,
v.
Federal Power Commission,
Respondent,
Phillips Petroleum Company,
Intervenor,
State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

No. 11,242 APRIL TERM, 1952

City of Kansas City, Missouri,
Petitioner,
v.
Federal Power Commission,
Respondent,
Phillips Petroleum Company,
Intervenor,
State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

No. 11,245 APRIL TERM ,1952

City of Milwaukee, a municipal
corporation,
Petitioner,
v.
Federal Power Commission,
Respondent,
Phillips Petroleum Company,

Intervenor,
State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

No. 11,252 APRIL TERM, 1952

County of Wayne, Michigan,
Petitioner,
v.

Federal Power Commission,
Respondent,
Phillips Petroleum Company,
Intervenor,
State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

Before: Stephens, Chief Judge, and Edgerton and Proctor, Circuit Judges, in Chambers.

ORDER

These cases came on for consideration on the motion of the Corporation Commission of the State of Oklahoma for leave to intervene, and were argued by counsel for the State of Oklahoma and for the State of Wisconsin and the Public Service Commission of Wisconsin. Respondent has consented to the granting of this motion and the State of Wisconsin and Public Service Commission of Wisconsin, petitioners in No. 11,247, have filed a stipulation in which they state they will not object to the granting of said motion.

Upon consideration whereof, it is ORDERED by the Court that the motion of the Corporation Commission of the State of Oklahoma for leave to intervene be, and it is hereby, granted.

Dated: MAY 12 1952

Per Curiam

United States Court of Appeals
For the
District of Columbia Circuit

FILED MAY 12 1952

JOSEPH W. STEWART
Clerk

UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT

No. 11,247 APRIL TERM, 1952

State of Wisconsin and Public
Service Commission of Wisconsin,
Petitioners,

v.

Federal Power Commission,
Respondent,

Phillips Petroleum Company,
Intervenor,

State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

No. 11,241 APRIL TERM, 1952

City of Detroit, Michigan,
Petitioner,
v.
Federal Power Commission,
Respondent,
Phillips Petroleum Company,
Intervenor,
State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

No. 11,242 APRIL TERM, 1952

City of Kansas City, Missouri,
Petitioner,
v.
Federal Power Commission,
Respondent,
Phillips Petroleum Company,
Intervenor.
State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

No. 11,245 APRIL TERM, 1952

City of Milwaukee, a municipal
corporation,
Petitioner,
v.
Federal Power Commission,
Respondent,
Phillips Petroleum Company,
Intervenor,

State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

No. 11,252 APRIL TERM, 1952

County of Wayne, Michigan,
Petitioner,

v.

Federal Power Commission,
Respondent,
Phillips Petroleum Company,
Intervenor,
State of New Mexico and the Oil
Conservation Commission of the
State of New Mexico,
Intervenors.

Before: Stephens, Chief Judge, and Edgerton and Proctor, Circuit Judges, in Chambers.

ORDER

These cases came on for consideration on the motion of the State of Texas through the Railroad Commission of Texas for leave to intervene, and were argued by counsel for the State of Texas and for the State of Wisconsin and the Public Service Commission of Wisconsin. Respondent has consented to the granting of this motion and the State of Wisconsin and Public Service Commission of Wisconsin, petitioners in No. 11,247, have filed a stipulation in which they state they will not object to the granting of said motion.

Upon consideration whereof, it is ORDERED by the Court that the motion of the State of Texas through the Railroad Commission of Texas for leave to intervene herein be, and it is hereby, granted.

Dated: MAY 12 1952

Per Curiam

United States Court of Appeals
For the
District of Columbia Circuit

FILED MAY 12 1952

JOSEPH W. STEWART
Clerk

TESTIMONY IN DOCKET G-1148 TAKEN BEFORE FEDERAL POWER COMMISSION EXAMINER

[7]

PRESIDING EXAMINER [Edward Marsh]: On May 4, 1950, the Chairman of the Commission designated this Examiner to preside at the hearing required by its order of February 28.

Subsequent to the issuance of the order herein instituting an investigation, several states, state regulatory and other commissions, several cities, and a number of boards and associations have sought and received authorization to participate in this proceeding.

In a few moments I shall ask for the appearances of the parties and participants, including these interveners.

Before doing so, however, I want to announce that I have received from the secretary of the Commission the following memorandum, and I quote:

> "March 30, 1951, Memorandum for: Presiding Examiner Marsh, Bureau of Law, Bureau of Accounts, Finance and Rates.

[8]

> "For your information, the following is an excerpt from the minutes of a meeting of the Commission held on March 29, 1951:
>
> " 'The Commission had before it the Motion to Limit Issues filed on March 27, 1951, by Phillips Petroleum Company in Docket No. G-1148, but

> decided to defer action thereon until the other parties to the proceeding have had the opportunity provided for by the Rules to file answers to said motion. Upon motion by Commissioner Draper, seconded by Commissioner Wimberly, the Commission (Commissioner Buchanan dissenting) directed that, in the meantime, the Examiner designated to preside at the hearing in said proceeding scheduled to commence on April 3, 1951, be instructed to confine the taking of testimony to Paragraph (A) (i) of the order of the Commission entered October 28, 1948, and issued October 29, 1948.' "

Signed Leon M. Fuquay, Secretary.

That memorandum was accompanied by a memorandum of transmittal, which reads as follows:

> "Because of time limitations, we will not be able to serve notice of this action upon the participants in the proceeding. I will, therefore, appreciate it if you will have it spread upon the record at the

[9]

opening of the hearing."

* * *

[94]

CARL E. LUTTRING

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. McAllister

Q. What is your full name, Mr. Luttring? A. Carl E. Luttring.

Q. I believe you are employed by the Federal Power Commission? A. I am.

Q. In what capacity? A. Chief Examiner of Accounts in the Division of Accounts.

Q. I was wondering, how long have you been employed by the Federal Power Commission? A. I have been in the employ of the Federal Power Commission for 12 years.

* * *

[100]

Q. Mr. Luttring, have you prepared a statement entitled "Phillips Petroleum Company and Subsidiary Companies Consolidated Balance Sheets Per Books December 31, 1938 to 1950"? A. Yes.

* * *

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 3 FOR IDENTIFICATION.)

* * *

[101]

Q. Mr. Luttring, with reference to Exhibit 3 marked for identification, will you state for the record the source of the figures which you have incorporated on that exhibit? A. All of the figures on Exhibit No. 3 have been taken from the financial reports and records of the company.

Q. Mr. Luttring, did you also prepare the exhibit of Phillips Petroleum Company and subsidiary companies, consolidated income account per books, years ended December 31, 1938 to December 31, 1950? A. I did.

* * *

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 4 FOR IDENTIFICATION.)

* * *

Q. Mr. Luttring, by reference to that exhibit will you state what has been the source of the figures which are

[102]

embodied on that exhibit? A. The source of the figures used in Exhibit No. 4 was taken from financial reports of Phillips Petroleum Company in particular.

Q. Were all of the figures embodied on this exhibit figures taken from the books and records of Phillips Petroleum Company as they were made available to you? A. Yes, it was. I might add that the figures hereon are an exact duplicate of those shown in statements of the company which appear in the same form as set up herein.

Q. Mr. Luttring, I direct your attention to an exhibit entitled "Phillips Petroleum Company and Subsidiary Companies Gas Operations Condensed Income Account Per Books Years Ended December 31, 1938 to 1950," and ask you if that was prepared by you. A. Yes, it was.

* * *

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 5 FOR IDENTIFICATION.)

* * *

Q. Mr. Luttring, what is the source of the figures that were referred to in the Condensed Income Account Per

Books as affected on the exhibit just marked for identification as Exhibit No. 5? A. All the figures appearing on Exhibit 5 are exactly in the same form as they appeared on financial reports and records of the company.

Q. Mr. Luttring, I direct your attention to a statement entitled "Phillips Petroleum Company and Subsidiary Companies Gas Operations Consolidated Income Account Year to Date, December 31, 1949," and ask you if that was prepared by you. A. Yes, it was.

* * *

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 6 FOR IDENTIFICATION.)

* * *

Q. Mr. Luttring, by reference to the exhibit which has been marked as Exhibit No. 6, will you state whether or not those figures shown on Exhibit No. 6 for identification were obtained from the books and records of the Phillips Petroleum Company? A. Yes, they were. The figures on sheet one of Exhibit 6 are an exact duplication of a statement bearing the same title in the company's financial report.

* * *

THE WITNESS: The figures on pages 2 and 3 of Exhibit No. 6 were all taken from the company's financial report and were summarized on these sheets under my direction to support the column headed "Residue" on sheet one.

* * *

[105]

Q. Mr. Luttring, I direct your attention to an exhibit

[106]

entitled "Phillips Petroleum Company and Subsidiaries, Excess Earnings and Tax Savings, Natural Gas Department, Year Ended December 31, 1950," and ask if that was prepared by you. A. It was.

* * *

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 7 FOR IDENTIFICATION.)

* * *

Q. Mr. Luttring, by reference to sheet one of Exhibit 7, which has been marked for identification, will you state what figures on sheet one have been taken from the books and records of the Phillips Petroleum Company and subsidiary companies? A. All figures on Schedule No. 1 of Exhibit 7, except the figures on the line indicated by "Return at assumed rate of 8-1/2 per cent," and the figures on the line indicated by "Excess earnings and tax savings" have been taken from the financial reports and records of the company.

* * *

[111]

Q. Now, as I understand it, Mr. Luttring, the figures that are on Schedule 1 down as far as the reference to eight and a half per cent is concerned, the dollar figures are figures which were taken from the books and records of Phillips and its subsidiary companies, is that right?

[112]

A. That is right.

Q. The cents per Mcf. sold at 14.65. p.s.i.a. that you show on the first column there, does that appear that way on the records or did you formulate that figure in some fashion? A. I believe that figure was filled in by our accounting staff.

Q. Could you state how it was arrived at? Was it obtained this way or can you—

A. By reference to Schedule 3, it will be found that the cents per Mcf sold for outside service is five and thirty-hundredths cents and for inside sales six and twelve-hundredths and for the two combined, it is five point sixty-three hundredths.

Q. That is shown on Schedule 3? A. That is right.

Q. And those are the ones that are reflected in that first column on Schedule 1? A. That is right.

* * *

[150]

W. S. ETCHIESON

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. McAllister

Q. What is your full name, Mr. Etchieson? A. W. S. Etchieson.

Q. I believe you are employed by the Phillips Petroleum Company, Mr. Etchieson? A. I am, yes, sir.

Q. In what capacity? A. As gas superintendent.

Q. With headquarters at what point? A. Phillips, Texas.

Q. At Phillips, Texas? A. Yes.

Q. How long have you been with the Phillips Petroleum Company? A. Approximately 16 years.

Q. And during most of that time have you been engaged in work for Phillips in relation to the operation of its gas properties? A. I have, yes, sir.

[151]

Q. Will you state for the record what the general scope of your work embraces? A. Well, my work consists of the operation of our gathering systems and the testing of gas for both potential and hydrocarbon content.

Q. Do you have supervision over all of the producing area that Phillips Petroleum operates in the Panhandle-Hugoton Field? A. Yes, sir.

Q. Does your supervision extend down into Permian Basin? A. No, sir, it does not.

Q. How far do you go in your supervision and where does it end in that direction? A. My supervision ends in Hartley County, which, I believe, is the nearest county to the area you are speaking of.

151

Q. Your supervision would extend over the areas in which the Sherman plant is located? A. Yes, sir.

Q. The Hansford plant? A. That is correct.

Q. And Borger plant? A. We do not have a plant named Borger plant.

Q. I mean the Borger area, then.

[152]

A. Yes, sir.

Q. That is the Rock Creek plant down in there? A. Yes, sir, that is one of the plants.

Q. It extends over the Stratford area in Moore County? A. We speak of the Stratford area as being in Sherman County.

Q. In Sherman County. Some of the wells are over in Moore County? A. Yes, sir. We have wells in Moore county.

Q. That are connected with that acreage in what is called the Stratford area? A. I believe that is correct, yes, sir.

* * *

[170]

Q. So that the gas out of the Area "A" acreage enters a 24-inch line that extends almost due east or at right angles to the line, the 24-inch line, that goes down towards or past the Cactus Fertilizer plant, is that right? A. The connection from Area "A" to the Sherman gathering system is at a point north of the Cactus plant.

* * *

[173]

Q. Do you report the volume of gas into the Sherman Plant each day? A. Yes, sir.

Q. And do you report the volume of gas from the Area A Acreage into the general Sherman system? A. Yes, sir.

Q. That gas that is delivered out of the Area A Acreage cannot go anyplace except to the Sherman Plant. A. That is correct.

* * *

[176]

Q. The Hansford Gas Plant to which gas is delivered to Panhandle is located, you might say, substantially adjacent to the Sherman Plant; isn't that right? A. That is correct.

Q. And the largest delivery that you make to Panhandle is through the Sherman Plant rather than the Sneed Plant; isn't that right? A. The largest delivery that is made to Panhandle Eastern is through the Hansford Plant.

Q. And at the Hansford Plant, how many meters are there located at the input side of that plant to measure the gas coming into the Hansford Plant for processing? A. We do not have master meters on the intake of the Hansford Plant.

Q. You do not? A. No, sir.

Q. Are there any meters from the lines leading into the

[177]

plant at locations which substantially give you the same readings that you would obtain if the meters were located at the plant location, the plant site? A. I am sure that there are meters on the absorbers at Hansford Plant.

Q. The meters on the absorbers at the Hansford Plant? A. Yes, sir.

Q. And those meters give you substantially the readings that you would obtain had the meters been located as the gas entered the plant? A. They give you a rough estimate of the amount of gas that is delivered into the plant.

Q. Why do you say "a rough estimate"? Wouldn't they give you a fairly accurate estimate? What process takes place before that location? A. If my memory is correct on those meters at the Hansford Plant they are on the discharge side of the absorbers.

Q. The discharge side of the absorbers. A. Yes.

Q. Are there any other meters located at the outlet side of the plant as the gas leads away to the plant to the Panhandle facilities? A. Yes, sir, all the gas is measured on the discharge of the plant as it is delivered to Panhandle Eastern.

Q. Where are those meters located in relation to the

[178]

plant? What is the distance from the plant, or where are the pipes or lines connected leading away from the plant? A. Those meters are located approximately 100 yards from the absorbers at Hansford Plant and are located right near the fence line.

Q. Does Panhandle maintain any meters at that location? A. They do not.

Q. In other words, the gas delivered by Phillips to Panhandle through the Hansford Plant is measured by the meters that you have just referred to? A. That is correct.

* * *

[184]

Q. I am talking about the flow of gas out of that 22-inch line of Panhandle. All of that gas, the gas from the 27 wells, as well as the gas belonging to Panhandle that is in that 22-inch line comes into your Sneed gasoline plant; is that right? A. It first comes to Panhandle Eastern's compressor station, and then they compress the gas up to approximately 500 pounds for delivery to our Sneed Plant for processing.

Q. I see. Then it goes through Panhandle's compressor station and then out of that into your absorbers, and then back into the continuing line of Panhandle. A. That is right.

* * *

[185]

Q. The acreage, the wells, the lines, and so on, going into the Hansford Plant represent a very close net unit of operation, do they not? There is not any mingling of that gas with any other gas or the introduction of any other gas into that operation as the usual course of operation? A. At the Hansford Plant all the gas delivered into

[186]

that gathering system is delivered to Panhandle Eastern.

* * *

[225]

MASON G. WALTERS

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. McAllister

* * *

[226]

Q. In what capacity are you employed by the Federal Power Commission? A. I am employed as a natural gas engineer in the Division of Rates.

Q. I believe you are a graduate engineer and geologist? A. That is correct; from the University of Pittsburgh.

* * *

[250]

Q. With reference to Exhibit No. 2, Mr. Walters, will you tell us the source from which the information was obtained and whether it was prepared by you? A. The map and Exhibit No. 2 was prepared by me based on the other diagrams that cover this area which has recently been entered as Exhibits 12, 13 and so forth. The purpose of making this map was to show the operations in the Panhandle of Texas in a convenient form. The general pipe line system is shown, and from this sketch one can note the operations in a ready manner.

Q. In the first place, it shows the relative geographic

[251]

locations of various plants. A. That is correct.

Q. Gasoline plants in which gas is delivered to the companies as supplied by Phillips as shown on Exhibit No. 1; isn't that right? A. That is right.

Q. Generally speaking, it shows the major lines indicated on Exhibits 12, 13, 14 and 15, although not all of the lines shown on those exhibits; isn't that right? A. That is correct.

Q. Was there anything else on here that is not on Exhibits 12, 13, 14 and 15 other than the difference in the legend? A. There is nothing on this sketch that is not shown on those sketches outside of the legend.

Q. This map, however, does not contain all of the detailed lines that are shown on Exhibits 12, 13, 14 and 15? A. That is correct.

Q. Is there anything on this map that is not on Exhibits 12, 13, 14 and 15? How about the Borger system? A. That is right; from the Sneed Plant east to the Northern Natural Gas Company Pipe Line, the area between — or rather, from the east line of Moore County to the Northern Natural Gas Company plant running north and south, that part in there has been added in order to tie the Gray Plant area into

[252]

the Moore County area, and so forth.

Q. With respect to that was the detail that is supplied in that area which lies between the points that you have described obtained from maps and drawings supplied to you by Phillips Petroleum Company? A. That was obtained from maps supplied to me by Phillips Petroleum Company, that is right.

Q. And in the same general way, was it your effort to put in here the general lines and to fill in that area in the same manner in which the general lines are shown in the other areas represented by Exhibits 12, 13, 14 and 15? A. Yes, sir.

Q. From your knowledge and study of the maps that were supplied to you, does this clearly reflect to the extent that the lines are shown, the relative location and lines of Phillips' operations in this area? A. It does.

MR. McALLISTER: I offer Exhibit No. 2 in evidence, Mr. Examiner.

MR. SPARKS: I would like to ask the witness some questions.

* * *

[259]

MR. SPARKS: Then the most you could say for Exhibit No. 2 is that it is a representation of a portion, and in some areas a relatively small portion of the Phillips field lines?

THE WITNESS: I would say that Exhibit No. 2 was made in order to show the general operations of Phillips in that Panhandle area.

MR. SPARKS: Did you intentionally omit any lines from Exhibit 2 which appear on Exhibit 15, the Pampa area, because they carried casinghead gas as distinguished from dry gas?

THE WITNESS: That was not the reason for omitting those lines, no.

* * *

[260]

MR. SPARKS: If the Court please, we wish to object to Exhibit 2 as not being a fair representation of what it purports to represent. It is stated to be a diagram of the pipe line facilities used to supply natural gas to El Paso Natural Gas Company at Dumas Plant, Northern Natural Gas Company and Independent Natural Gas Company at Gray Plant, and Skellytown, Panhandle Eastern Pipe Line Company at Sneed Plant and at Hansford Plant, and Michigan-Wisconsin Pipe Line Company at Sherman Plant, and since it clearly appears that it does not represent what it purports to represent, we object to it, and ask that it not be admitted in evidence. I think it is clearly shown that it is so deficient as to have no relevancy or materiality to the proceeding.

MR. McALLISTER: Mr. Examiner, I think the exhibit clearly

[261]

shows that it is, as the witness says, a general reproduction of lines connecting the various plants in relative geographic locations so that by looking at Exhibit No. 2, and by reference to Exhibits 12, 13, 14 and 15, a full and complete picture is given. It only purports to be the general line tying together those various plants and locations as described by the witness. There has been nothing omitted. It was prepared deliberately as it is shown.

PRESIDING EXAMINER: It seems to me that it is competent evidence. It seems to me that it is relevant and material. The weight of the testimony, of course, that is a different question. Whether the witness has correctly set out the detail, whether the details are complete, of course, that is a different proposition. It does not seem to me that that would go to the relevance of the evidence or its materiality, except to the extent that the weight, perhaps, would be lessened, if it is established that there are errors or inconsistencies, or the map in the final analysis is incomplete.

The objection is overruled.

Does anyone else have any objection to this exhibit?

(No response.)

PRESIDING EXAMINER: Exhibit No. 2 is received in evidence.

* * *

[265]

W. S. ETCHIESON

a witness recalled after having been first duly sworn, was examined and testified further as follows:

Direct Examination by Mr. McAllister

* * *

[292]

Q. What other lines would be required in that area in order that you might deliver out of that area into the

[293]

Dumas plant the full one hundred sixty-five million which would be the normal delivery through that plant to El Paso?

A. It would require no other lines other than the ones that we have in our system to deliver the full one hundred sixty-five million.

Q. Out of this area to the southwest of the Dumas plant? A. Yes, sir.

Q. I mean you can do that today, then? A. We can do that today, yes, sir.

Q. Now, just northeast of the Dumas plant there is a figure 20 there. Is that also a 24-inch line in that vicinity? A. No, sir. That is a 20-inch line in that vicinity.

Q. That is a 20-inch line in that vicinity. Under normal operations does that line feed gas into the Dumas plant? A. It is pretty hard to say or determine what normal operations are in a system of the size we are trying to operate out there, but gas is fed into the Dumas plant through that 20-inch. It is also fed in from the 24 that extends east of Dumas plant, and also from the 30- and 24-inch lines from the southwest.

Q. Yes. A. It depends on what our operating difficulties are in

[294]

the entire field.

Q. Yes. Well, then, under such conditions the gas in that 24-inch line indicated as a G line there might flow westwardly into the Dumas plant or eastwardly over the Rock Creek plant? A. That is absolutely correct.

Q. I mean it is just the conditions in the system which indicate which way that gas is going to flow, depending upon the required deliveries to the—well, the required deliveries to satisfy requirements out of the various plants? A. Yes, sir.

Q. On this map, Exhibit 14, the line D, there is shown a 24-inch line drawn in ink just south of that dotted line indicating the division between the Hugoton and Panhandle Fields, that 24-inch line tying the D line over to the Line A-8-3. That is a new line, new connection, that has been recently put in there or a new line— A. (Interrupting.) That is a new line compared with this greater part of the other Borger system.

Q. Yes. And then there are some lines there with a spiral over them indicating that they have been removed. Those lines have been taken out, have they? A. Those lines have been salvaged.

Q. Been salvaged, taken out, and there is no longer lines leading across there?

[295]

A. No, sir.

Q. That 24-inch tie across from the D line to the 16-inch line, 12, 16 and 20-inch, indicated by the symbol A-8-3, that 24-inch line was probably laid when there was a large volume of gas coming out of the Area A acreage is that right? The 24-inch line wouldn't be required in there today for the flow of gas out of that, except for the flexibility that you speak of when you might want to take gas under an emergency situation out of the area A? A. It may not be required today and tomorrow we may need it.

Q. Tomorrow you may need it, yes, sir. Have there been any other material changes in there? Would that gas, if you were taking a large volume of gas out of Area A, as you say, when some necessity might arise, would that flow through connecting lines over there to what is known as the Carbon line or just what would be the normal route of that line? A. Well, we have various routes, if you will notice on Exhibit 14.

Q. Yes. A. That gas may go in several different directions in finding its way to the markets.

Q. Yes. Your experience has shown that it will flow through there in what volume?

[296]

A. Through this particular 24-inch pipe line?

Q. Yes. A. I don't know, for the reason that that depends upon the pressure that we may hold at the point that the line intersects with this 12-, 16- and 20-inch, and also the pressure that we might be able to maintain at the entrance to that 24-inch pipe line.

Q. In other words, is the pressure from the wells in the Area A generally higher than from the wells in this area here— A. (Interrupting.) The shut-in pressure in the only wells in the Area A acreage are generally higher than wells in the Borger system.

[297]

Q. So that if you held the volume down you could make it out of production from all the wells in there. If you got the pressure in the lines to which the A acreage gas fed too high, it would just blanket out production from the wells, or at least reduce the volume produced. A. If you would shut in the entire system, the entire Borger system, and leave the wells in Area A producing, they would soon start a back-flow into the wells connected along the line to the Borger area system.

Q. In your day-to-day operations, what would be the volume of gas flowing in that 24-inch line designated as A line in the vicinity of Sneed plant? A. When you say "day-to-day" it is pretty rough for me to estimate just how much gas does pass from day to day through that pipe line.

Q. You do have a rather definite volume into the Sneed plant for delivery to Panhandle; that is right, is it not? A. Yes, sir.

Q. And that would come off of the A line in normal operation? A. Well, those two 24-inch pipe lines at the point that the delivery is made to Sneed plant are all manifold together with valves, and we deliver gas from the 24 from the west, gas from the 24-inch line designated as G, and also A. There may be times, it may happen today, that the boys will have to

[298]

switch so that we will be supplying gas to Sneed plant from either of those lines.

Q. Would it sometimes happen that the gas would flow northwardly through the A or G lines from down in the vicinity of the Rock Creek plant? I mean, does the flow reverse itself in those A and G lines there along the point where you see the arrow pointing to the southwest, to Rock Creek plant? Would the flow in those A and G lines sometimes reverse itself? A. Absolutely.

Q. It does? I mean, in other words, either in the A or G lines from the southwest might be bringing gas up there to the Sneed plant, and also across the G line over to the Dumas plant. A. In fact, only last week I recall an operation where it was necessary that we do just that.

Q. Bring the gas from that area down around the Rock Creek plant of the A and G lines through the Sneed plant and across the G line over to the Dumas plant? A. Correct.

PRESIDING EXAMINER: I believe you mentioned southwest a couple of times. I think you meant southeast.

MR. McALLISTER: I did say southwest and I meant southeast. I seem to have that mixed up. Thank you, Mr. Examiner.

By Mr. McAllister

Q. That gas that comes up the A and G lines from the

[299]

vicinity of the Rock Creek plant — do you have Exhibit 2 there before you? A. Yes, sir.

Q. That would be the area down in there around the Sanford plant to the Borger plant and Pantex plant. I am not talking particularly about the plant, but the gas produced in that area would move up the A and G lines, as you have indicated. A. Yes, sir.

Q. This system which you call the Borger system, that is the most complicated system that you have to operate? A. Well, I would not say that. They are all complicated, from an operating standpoint.

Q. Do you have Exhibit 14-A before you?

This is sort of a plant layout, and if you are not familiar with it — I do not want to question you about it. You did say yesterday, I believe, that the gas which you deliver to Panhandle at Sneed goes into their compressor station and then back through your absorbers and then out of the absorbers back into the Panhandle system. A. Gas that we deliver to Panhandle Eastern first goes through our compressor station and is boosted up to approximately 300 pounds and delivered to the intake of Panhandle Eastern's compressors. They then compress it up to around 500 pounds and return it to us for processing.

[300]

Q. Through your own absorbers, and then back into their line? A. Yes, sir.

Q. Would that indicate about how it is handled without in any way trying to indicate by that diagram the exact location of the different facilities as are shown on there?

A. This drawing of our junction where the connection comes off our of our pipe line delivering gas to our Sneed compressors is not quite correct as to detail.

Q. It is a general plan, or does it indicate the manner in which the operations between Panhandle and Phillips are undertaken? This is a general plan, is it not? A. Yes, sir, I believe it is.

Q. And you said Mr. Parish— A. A. W. Paris.

Q. —would be the one who would have supervision over the detailed operations of these plants? A. Yes, sir.

Q. Do you recall in recent months a necessity arising for the delivery of gas out of the Area A acreage into the Borger system? A. No, sir, not recently.

Q. How long is it since there has been any gas delivered down that way? A. I don't know. I would have to check the records to

[301]

see.

Q. It was quite some time? Within the last year, say, do you have any recollection of gas being delivered down that way? A. I do not have a recollection to the point where we delivered gas from Area A to that system . I know that we have, so I would just have to check our records to see.

Q. Would you do that for me? A. Yes, sir.

Q. If the gas were delivered out of that Area A acreage, would it be metered at any point to determine the exact volume coming out of Area A? A. There is a meter at each individual well, and there are also meters on various tie-overs out of Area A into the Sherman system, and by deduction we could determine fairly accurately the volume.

Q. That is how you would determine the volume of gas flowing into the Borger system out of that area? A. Yes, sir.

Q. As long as the valve is closed southward out of the area, you do not have that problem, but you would know when you opened the valve that then there would be some gas flowing that way. A. Yes, sir.

Mr. McAllister, I might add a little to that last statement.

[302]

If that valve was open today there would be gas from that Area A acreage flowing into the Borger system, but it may be that our operations would be such that when we opened that valve it would flow in that opposite direction.

Q. It just depends on the pressures in that line and how you were producing? A. Yes, sir.

* * *

[306]

Q. Is there any way that you could describe on the record the mode of operation that you follow which indicates or points to you the necessity of changing the production in one area in favor of another, switching the gas, you might say, from one area to another? Just how does that come about? A. When it becomes necessary for us to switch gas from one area to the other or to decrease the volume in one area and raise the volume in another area, in order to maintain our deliveries, we dispatch men to both areas. Their automobiles are equipped with radios and they at all times are in communication with each other. A man in one area knows what the man in the other area is doing at all times.

Q. In other words, when he cuts in or cuts down one well, then the other man opens up some other wells, why, that enables you to gauge the flow and determine whether or not that would permit you to maintain the total over-all volume of gas to meet, as you call it, the market requirements? A. Yes, sir, that is right.

[307]

Q. What was the situation, I think you mentioned it as having occurred last week, in gas produced down in and around the Rock Creek plant, the Pantex plant and the

Sanford plant? I just use those names to indicate the area, produce gas there and move it up to the Sneed plant to meet Panhandle's requirements and across through the Dumas plant to meet El Paso's requirements, what was the situation that made that necessary? A. If you will notice on Exhibit 14, the pipe line designated as line A, which is the 24-inch pipe line, extending northwest from Sneed plant to a junction point there some, oh, seven or eight miles, that particular line was out of service to replace several joints of pipe, and during the period that the line was out of service it was necessary that we back flow gas.

Q. You mean by back flow, you mean from that area down around Rock Creek plant up to meet the requirements to Panhandle out of the Sneed plant? A. Yes, sir.

Q. And at that same time did some of that gas move across that line G to the Dumas plant? A. Yes, sir, it did.

Q. And through the Dumas plant to El Paso? A. Yes, sir.

Q. Was the full requirements of Panhandle during that

time supplied through the back flow of gas through the A line less whatever came off of that 22-inch line to which those 27 wells are connected? A. I'm not sure whether the full requirements was met or not, but I am reasonably sure they were in that particular case.

Q. Substantially those requirements? A. Yes, sir, and it would have to come from the area south and east of Sneed plant.

Q. And at that time what was the volume flowing through that G line into the Dumas plant off of the A line, on what order was that? A. I just don't know.

Q. I see. Was it a substantial volume, 10 million or more, or do you know? A. No, sir, I do not know.

Q. How much advance notice did you have that that A line northwest of the Sneed plant was going to be out? A. As I recall that, we were advised of a leak on that line the day before the repairs were made.

Q. And that permitted you to arrange for the deliveries which you have described? A. Yes, sir.

Q. And the gas, you said, was moved—you regulated the flow of gas by production so that it did flow in the way

[309]

that you have mentioned? A. Yes, sir, we did.

Q. How did you accomplish that, by producing more gas in the area? A. Yes, sir, unless we were to decrease our markets in what we call the Borger area. That is the only way that we could handle a situation as we did.

Q. Yes. You didn't actually reduce your deliveries, did you, or did you? Was it a combination or do you know? A. As I recall, we made most of our deliveries during that period.

Q. By the opening up of the wells, so to speak? A. Yes, sir.

Q. On Exhibit 14, there is a 24-inch line with a symbol "C" on it. Is that what is commonly or sometimes referred to as the Carbon line? A. Yes, sir, it is.

Q. And there is one point there on the Moore County-Hutchinson County line north of the Sneed plant, there is an arrow indicating a southeasterly direction labeled "to Rock Creek". That is a 24 inch line leading all the way into the Rock Creek plant, is it not? A. No, sir. That 24-inch line as a raw gas gathering line does not extend all the way to Rock Creek.

Q. Where does it terminate?

[310]

A. It terminates as a raw gas line at what we call our Johnson plant, and from that point the gas moves through a 20-inch pipe line to the southwest and from the 20-inch into a 24-inch pipe line.

Q. That gas is destined for local deliveries, primarily, or does any of that gas find its way into interstate pipe lines? A. After the gas gets to Johnson and Rock Creek plant, I don't believe we have any sale from those plants to an interstate pipe line company.

Q. It doesn't go to Cities Service or any of those pipe lines of that character? A. No, sir.

Q. Does the gas in that line have a back flow at any time? A. I am sure that we have found it necessary to back flow gas through that line, but I don't recall any particular occasion that we have recently.

Q. When you would back flow that gas in that line, would it be to provide for the delivery of gas back through that line around through the Dumas plant to El Paso? A. It could very well be, yes, sir.

Q. That would be one use that might be made of that line if occasion arose to take the gas out of the producing area around Borger over through the Dumas plant to meet

[311]

requirements of the El Paso Natural Gas Company? A. Yes,sir. Our pipe line system is such that that could be done.

Q. And there have been occasions, as you recall it, when that was done? A. I don't recall any particular time when we have done that, but as many switches and shutdowns as we have made in that system the last 10 years that I have been at Borger, I feel reasonably sure that that has taken place.

Q. And it is an operation that you could clearly visualize if the occasion arose for the movement of gas in that fashion? A. Yes, sir.

* * *

[317]

Q. What popular names do you have assigned to these large diameter lines? Take that A line from the Sneed plant when it is going to be put out of service, when people call you up and when the repairmen said "We are going to knock out

[318]

that line tomorrow morning at 10 o'clock and replace three joints of pipe." What would be his popular name for his designation of that line? A. He would call that the 24-inch gathering line between our Moore County junction and the Sneed gasoline plant.

Q. You would define it in that way? A. Yes, sir.

Q. He would put it in the term "gathering line." A. We speak of all of our pipe line system as a gathering line.

Q. I know you speak of them as a general term. A. Yes, sir.

Q. But if he were to report that to you he would say the 24-inch line, would he not, he would not put the word "gathering" in there in his advice to you, would he? It would be unusual if he did, would it not? A. No, sir, it would not.

Q. Would you have any other 24-inch line other than that in there? A. That is the only 24-inch line that we have between those two points.

Q. Then he would refer to it as a 24-inch line between those two points, would he not? A. I would say that most of our field men refer to all of the lines as the general line.

Q. I know they would refer to that, because the nomenclature, the name you assign to them, but I mean if you called a man in the field and you would say to him, "Go to the 24-inch line at such and such a point and see if it is leaking," would you be specific in telling him that there was a gathering line there, in such instructions? A. Oh, I might say our 24-inch pipe line at a certain point.

Q. Sure. Unless there is some reason for you to argue about it, you would not refer to it as anything else than a 24-inch line, a pipe line, or something like that; is that right, as general day-to-day business? A. I would say that most of the time when I refer to those lines I would call it the gathering line.

Q. Do you have any other classification, are they well lines, field lines? A. If we are talking of a connection to some particular well we would say the gathering line or possibly the line gathering gas from some particular well, a well.

Q. You would call it well line, wouldn't you? A. I might call it both.

* * *

[325]

Q. In your day-to-day operations in talking of these lines are there not some lines that you call trunk lines? A. I usually refer to those larger lines as a main line.

Q. Or trunk line? A. Very seldom would I refer to any line as a trunk line. I usually say main line or main gathering line but never a trunk line.

Q. Isn't it a fact that you told some of our boys that you referred to them as trunk lines? Do you recall that? A. I don't recall it.

Q. You don't recall it? A. It is possible that I have referred to some of the lines as trunk lines, but it is very seldom that I do that.

Q. Do you know also of another term that you use commonly as lease lines, where a line leads off of one of those major lines into a well or onto a certain lease?

[326]

A. I usually refer to a line from one of our main lines to some particular well as the gathering line to that well.

* * *

[327]

Cross-Examination by Mr. Sparks

* * *

[338]

Q. Through the various loops that you have delineated here and as appears from the map by the junctures of the various lines, may the gas flow on occasion at both directions? A. There is a point on each line where the gas, I think, flows in two directions.

Q. You mean at any one time it necessarily flows in two directions at some point on the loop? A. On occasions it almost has to be that way.

[339]

Q. Is it, therefore, possible to determine accurately as to all of the gas that is delivered to El Paso Natural Gas Company from the Dumas plant and to Panhandle Eastern Pipe Line Company at the Sneed plant, the source or wells from which all of that gas is produced? A. I wish it were possible that I could do that, but that is a problem that it would be impossible for me to solve. I cannot tell how much of the gas from any one well went to Dumas plant either through the 24 or the 20 or the 30-inch. I feel I can get fairly close to the amount of gas that is handled through one line at some given time, but over a period, why, it is pretty rough to do.

Q. You mentioned, I believe, that sometimes variations in market requirements of the purchasers occasioned variations in operations of the system. Are there other reasons why, on occasion, you have variations in the operations of the pipe line system, and therefore varying flows of gas through those loops? A. Yes, sir. I think I mentioned yesterday that in addition to the fluctuation in deliveries to our markets, that the atmospheric temperatures had a bearing on the transportation of gas, and also the testing programs that were set out by the Railroad Commission, and our own testing program for informational purposes, line breaks, and there may be others, but I do not recall right now.

* * *

[370]

KENNETH S. ADAMS

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. McAllister

Q. Mr. Adams, what is your full name, please? A. Kenneth S. Adams.

Q. I believe you are president of the Phillips Petroleum Company? A. Yes, sir.

* * *

[407]

Q. Now I show you the annual report for 1949, Mr. Adams, and referring to Page 10, the following appears:

> "Delivery of natural gas"—no, I am going to start at the beginning at the top—"Gas sales for the hear, exclusive of company requirements were 418 billion cubic feet as compared with 391 billion cubic feet during 1948. If gas gathered and processed or consumed by the company in its various manufacturing and other

operations were considered as a part of the 1949 total sales volume, this latter figure would be 550 billion cubic feet, an average of more than one and one half billion cubic feet per day. Gross income from sales to outside purchasers was 20 million 4 hundred thousand dollars, an 18 per cent increase over the 1948 income of 17 million 3 hundred thousand dollars.

[408]

"Delivery of natural gas to Michigan-Wisconsin Pipe Line Company started about the first of November, in performance of the company's contract to supply the total gas requirements of this line. This project makes gas from Texas and Oklahoma available to markets in the States of Michigan and Wisconsin. The immediate daily requirements approximate 190 million cubic feet, with expectations of an increase to 340 million cubic feet daily in the near future. Like several similar projects, this development is the outgrowth of a long-range program conceived nearly a quarter of a century ago for the acquisition of low cost natural gas reserves in the Texas Panhandle and Texas-Oklahoma Hugoton Field. The company's resources of natural gas located in these fields, the Gulf coastal area, the Permian Basin of West Texas and New Mexico and elsewhere are generally recognized as being the largest held by any company in this country."

Now, that appears under the heading natural gas on Page 10 of the annual report for 1949, which you signed and with which you were familiar at the time you signed the report, is that right, Mr. Adams? A. Yes, sir.

Q. And as far as you know and as far as you knew then it was true and correct, the statements made therein?

A. Yes.

Q. Now I direct your attention to a title or description on Page 11 of that annual report, Mr. Adams, which shows a gasoline plant, certain piping structures—that is the picture—and under the picture this appears:

> "This West Texas gasoline plant and similar plants extract the liquid content and prepare gas for delivery to the El Paso Natural Gas Pipe Line for transmission to California. Other company plants supply natural gas to pipe lines serving Michigan, Wisconsin and other northern states."

You were familiar with that statement at the time it appeared in the annual report, were you not, Mr. Adams? A. I think I was.

Q. Well, you signed it and your stockholders and everyone else assumed it represented as being a true and full statement regarding the matters referred to, is that right? A. I would think so, yes. I don't recall it.

Q. But I correctly read the statement from the annual report? A. You did, yes, sir.

Q. And you signed that annual report? A. Yes, sir.

Q. Now we come to the 1950 annual report, Mr. Adams, and under the heading "Natural Gas" on Page 10 of the annual report, which, I believe you signed as president of Phillips Petroleum Company, did you not, Mr. Adams? A. Yes, sir.

Q. And this statement appears:

> "The volume of gas sales by Phillips reached a record level in 1950. Exclusive of company requirements, sales totalled 504 billion cubic feet, an increase of 86 billion cubic feet over the previous year. Gross income from sales of gas to outside purchasers was 26 million dollars, an increase of 27 per cent over 1949. The volume of gas gathered and processed or consumed by the company in its various operations, when added to the volumes delivered to outside purchasers, totalled 630 billion cubic feet, an average of more than 1.7 billion cubic feet per day. Deliveries of natural gas to Michigan-Wisconsin Pipe Line Company were being made at the increased rate of approximately 280 million cubic feet daily at the end of the year. The sale to El Paso Natural Gas Company of an additional 30 million cubic feet of gas per day for ultimate delivery to California started during the summer from the company's West Texas and New Mexico plants, bringing the total daily deliveries to that purchaser to 395 million cubic feet.

> "A contract has been consummated with Texas-Illinois Natural Gas Pipe Line Company to sell approxi-

mately 26 million cubic feet of gas daily from Phillips' reserves in the Chocolate Bayou field, Brazoria County, Texas."

MR. SPARKS: I believe it is 28, is it not, Mr. McAllister?

MR. McALLISTER: It is. Did I say something else?

MR. SPARKS: You said 26.

MR. McALLISTER: 28 is correct. "This gas will be delivered to the Chicago area by a pipe line now being constructed by the purchaser."

That statement appears in the annual report for 1950 as I read it, does it not, Mr. Adams? A. Yes, sir.

Q. And this is sufficiently near to the present time, is it not, that you can say that you do know that those statements are correct and that they were so known to you as being correct at the time you signed this annual report? A. Yes, sir.

Q. Mr. Adams, I have before me a prospectus of the Phillips Petroleum Company and the date of issue of this prospectus as shown on the bottom of the first page is August 16, 1938, and it relates to the issuance of 25 million dollars worth of Phillips Petroleum Company convertible

[412]

three per cent debentures due September 1, 1948, and on Page 42 of that document appears the signature—it is printed—Phillips Petroleum Company by K. S. Adams, president. I just want to make one point clear. This is a matter —the matter I am inquiring about is a sentence or a statement contained on Page 12, and I'll read it.

MR. SPARKS: Could I see it before you read it into the record, please?

[413]

MR. McALLISTER: The statement therein contained on page 12 is this:

> "Natural gas purchased by Independent Natural Gas Company from the company within the State of Texas is transported by that company and delivered to Northern Natural Gas Company at Skellytown wholly within the State of Texas. The company understands that upon taking title to the gas so delivered, Northern Natural Gas Company transmits this gas to points outside the State of Texas."

BY MR. McALLISTER:

Q. Whether or not you recall that statement as being in that prospectus, as being the prospectus for the issuance of securities, you were satisfied, and you knew at the time you signed it that it was a correct statement, did you not, Mr. Adams? (Handing document to witness.) A. I would not have signed it if I thought there was any mis-statement in the prospectus.

Q. And since your recollection might not now be as clear as to exactly what you had in mind then, you do know at that time you would not have signed it had it not been a true statement? A. Certainly not.

* * *

[445]

Q. I call your attention to a contract between Michigan-Wisconsin Pipe Line Company and Phillips Petroleum Company under date of the 11th day of December 1945, which has been identified in this record as Exhibit 11-A, and direct your attention to Article I, Section 3, Sub-paragraph (d). That provides, does it not, Mr. Adams, the failure of buyer, which

[446]

is Michigan-Wisconsin Pipe Line Company, to commence on or before January 1, 1948, the acceptance of deliveries of gas hereunder for delivery by buyer, which is Phillips Petroleum Company, for resale in one or more municipalities east of the Missouri River. A. That is correct.

Q. And the paragraph into which that fits begins by reading:

> "However, upon the happening of any one of the following contingencies, to-wit," then there are paragraphs a, b, c, and d which you have read.

Then the quoted part goes on:

> "Seller," which is Phillips Petroleum Company, "shall have the right to terminate this contract by written notice to be delivered to buyer not later than 30 days after the happening of such contingency."

That is what the contract says, does it not? A. Certainly.

Q. By supplement agreement, which is agreement N in this record, entered into on the 16th day of October 1946, between Michigan-Wisconsin Pipe Line Company and Phillips Petroleum Company, it is provided that Article I, Section 3, Sub-paragraph (d) shall be amended by striking therefrom the date January 1, 1948, and substituting in lieu thereof the date of January 1, 1949.

That is the paragraph to which we previously referred; is that right? A. Yes.

Q. So that under the original contract as modified by this agreement of October 16, Michigan-Wisconsin was under obligation to begin taking gas for resale east of the Missouri River on or before January 1, 1949. A. That is correct.

Q. And upon failure of Michigan-Wisconsin so to do, Phillips had the right to cancel the contract by giving 30 days' notice to Michigan-Wisconsin? A. That is as I understand it.

Q. Do you now recall that on or about March 15, 1948, Michigan-Wisconsin Pipe Line Company suspended construction and did not then thereafter resume construction until about June 1, 1948? A. I don't recall that they ever stopped construction once they started. They may have.

MR. McALLISTER: I have here a letter that I propose to read into the record, Mr. Examiner.

(Document handed to Mr. Sparks.)

MR. SPARKS: No objection.

MR. McALLISTER: It is a letter on the letterhead of Michigan-Wisconsin Pipe Line Company, bearing date of

March 24, 1948. It is addressed to Mr. A. B. Hiatt, Staff Director,

Phillips Petroleum Company, Bartlesville, Oklahoma.

"Dear Mr. Hiatt:

> "During your recent visit you indicated a wish to be advised of the progress of construction of the Michigan-Wisconsin pipe line. As of March 15 the laying of pipe has been suspended, although pipe fabrication and its shipment to the site will continue as previously scheduled.
>
> "When work is resumed I will arrange for Mr. Poor of Ford, Bacon & Davis in Kansas City to advise you regularly of the progress.

"Yours very truly," signed C. T. Dickeman, Executive Vice President, with carbon copies to Mr. V. H. Kyle and Mr. W. B. Poor.

A letter of that character addressed to Mr. Hiatt and retained in the correspondence file from the Phillips Petroleum Company, the information being supplied by Michigan-Wisconsin, would indicate that there was that suspension of construction, would it not, Mr. Adams?

THE WITNESS: In accordance with the letter, yes.

BY MR. McALLISTER:

Q. Do you recall, Mr. Adams, in the early part of June 1948 you had a conference in New York with Mr. William G. Woolfolk of the Michigan-Wisconsin Pipe Line Company, wherein you discussed with him the further extension of time

[449]

beyond January 1, 1949 as the time when Michigan-Wisconsin was obligated to begin taking gas from Phillips for resale by Michigan-Wisconsin east of the Missouri River? A. I recall that I had a conference with Mr. Woolfolk in New York. I do not recall the exact time of the conference.

* * *

[450]

Q. Do you recall having a conference at a later date in July with Mr. Woolfolk in Kansas City? A. Yes, sir.

Q. Wherein the question of the extension of the deadline or the date upon which they would be required to begin taking gas was discussed? A. Yes, sir.

Q. And in that conference you were accompanied by Mr. Don Emery, general counsel of Phillips Petroleum Company; isn't that right? A. Yes. We had one other man with us, and I believe it was Mr. Rippel, but I am not sure. I believe it was. We could find out very easily.

Q. Can you find out by asking him here now. I do not have it, and I would like to know. A. Surely.

MR. SPARKS: Is he here?

THE WITNESS: It was not Mr. Rippel, it was Mr. Hiatt. I knew I had somebody there with me because I could not get myself along with that crowd without having lots of help.

BY MR. McALLISTER:

Q. In addition to Mr. Woolfolk, there was Mr. John Durn

[451]

of Michigan-Wisconsin, do you remember that? A. He had a man or two with him and I just do not remember who they were. I never met them before.

Q. Mr. H. B. Munsell and Mr. Thomas K. Humphrey, general counsel for United Light and Railway Service Company. A. I remember the latter two men being there. The other gentlemen I do not recall.

* * *

Q. And the one principal point that was involved in the discussion at that conference was the extension of the date that we have been discussing; isn't that true? A. No, not as I recall. The main thing that they were after, as I recall, was more gas, more gas reserves. I think at the same time we discussed an extension of the contract, and I do not know whether or not we extended the contract at that particular time. I would have to refer to the contract as it was written, as far as starting to take gas is concerned.

Q. The contract was changed, let us put it that way, or amended, whatever you want to call it, as the result of that conference, or following the conference, let us put it that way,

[452]

because I presume there were other negotiations also; isn't that right? A. Yes, we discussed the additional sale of gas.

Q. To go all the way on it, the price, the volume, the dates of delivery? A. The latter two — the date of delivery is the only one of the three that I am confused on in my own thinking. I just do not recall. There have been so many amendments, I just do not recall the exact date.

Q. I show you a contract between Michigan-Wisconsin Pipe Line Company and the Phillips Petroleum Company, bearing date of August 9, 1948, and marked for identification in this record as Exhibit 11-O. I wish you would look at that, Mr. Adams, and satisfy yourself that that is the contract that you have in mind which embodies the matters discussed or agreed upon at this conference in Kansas City.

* * *

[453]

THE WITNESS: I am down to two of them. I see that we gave more gas acreage, we extended the time from January 1, 1949 to July 1, 1949, that they had to start taking gas. Also the commitments of the volumes of gas they had to take was extended. Next is the price provision which was changed. Those are the three that I recall.

BY MR. McALLISTER:

Q. The price was increased in that contract? A. The base price, as I understand, was increased in the contract.

* * *

[455]

Q. Mr. Adams, during the course of your testimony

[456]

on Friday of last week, reference was made to a certain conference which you had with Mr. Woolfolk of the Michigan-Wisconsin Company in New York and later in Kansas City, regarding the renegotiation of a contract between

Phillips and Michigan-Wisconsin for the supply of a volume of gas for a pipe line which at the time of the conference was under construction. I am not sure that this fact was made plain on the record, but it is a fact, is it not, that at the conference in New York he related to you their predicament due to shortage of steel and what-not, and their fear that they would not be able to meet the deadlines in that contract of December 11, 1945, with Phillips, which is Exhibit 11A in this record. Is that a fact? He did set those facts out and stated to you, did he not, that he was apprehensive of their ability to meet those deadlines? A. Yes. As I recall, that conversation occurred.

Q. And he also advised you that he was desirous of having the contract modified by extending the time within which certain particular specified conditions were to be met by Michigan-Wisconsin? A. Yes, I think he covered that subject matter in that conference that we had in New York.

Q. Do you have any recollection at this time of the miles of pipe which Michigan-Wisconsin had laid during the period up to and through July preceding the execution of the

[457]

contract or the amended contract on August 9, 1948? A. I don't have in mind the exact miles. However, I recall our men in our gas division so advised me that in their best judgment they were going to be able to comply with their contract requirements as far as construction of the line was concerned.

Q. But Mr. Woolfolk and the Michigan-Wisconsin people were not at all certain of that and they didn't want to be faced with the possibility of missing the deadline and losing their contract, isn't that true? A. I think they were more disturbed over it, naturally, than we were.

Q. Would it refresh your recollection any to say that the Michigan-Wisconsin people in a proceeding before the Securities and Exchange Commission showed that as of July 30 of 1948 they had 160 miles of line completed? A. No. This is the first time that I knew that—

Q. (Interrupting.) That any figure of that kind—
A. (Interrupting.) That is correct.

* * *

[466]

MR. McALLISTER: Just to tie it in a wee bit closer, Mr. Examiner, the contract of August 9, 1948, which is Exhibit 11-0 in this record, in paragraph five it has this to say:

> "It is understood the construction program of the pipe line described in said contract, dated December 11, 1945, may not permit Michigan-Wisconsin to commence the acceptance of deliveries of gas under said contract by the date specified in sub-section (d) of section 3 of Article I of said contract as amended, namely, January 1, 1945, or to accept deliveries of volumes of gas under said contract, as amended, October 16, 1946. In order to afford Michigan-Wisconsin relief in this respect, it is hereby agreed between the parties hereto that"—and the contract goes on to provide for the

changes that I have mentioned with respect to the provisions of the Power contracts relating to deadlines.

* * *

[467]

MR. McALLISTER: May I read the document into the record, Mr. Examiner?

PRESIDING EXAMINER: Yes.

The objection is overruled.

MR. McALLISTER: The heading is:

"In the Matter of Application Number 2 in Response to the Commission's Order of December 30, 1947 The United Light and Power Company, et al. (File Nos. 59-11, 59-17, 54-25)

"Exhibit E."

"1. State the number of miles of pipe in the ground at July 30, 1948.

"160 miles.

"2. State the number of miles of pipe on the right-of-way or at a contiguous railhead.

"96 miles.

"3. State the approximate date when construction was resumed following the shut-down in the first quarter of 1948.

"June 1, 1948.

[468]

> "State the approximate present rate of construction.
>
> "While the daily rate of construction varies and has recently exceeded the average figure, the management estimates that construction will proceed at an average rate of three miles per day."

Upon this appears in the stamp of the Securities & Exchange Commission:

> "U. S. Securities & Exchange Commission, received August 4, 1948, 4th Mail, Docket, Mail & Files."

The stamp on the lower left-hand corner:

> "Docket No. 54-25, Exhibit No. E, Respondent's, In the matter of The United Light & Power Co., Date, 7/28/48, Witness................Reporter................."

I have examined the testimony in that case, and I note that on that date, July 28, 1948, Mr. Woolfolk did testify, and this Exhibit E designation was reserved for a document upon which he was to supply certain specified information. I think this is all of the information he was asked to supply. I have not checked that.

[469]

MR. SPARKS: May I ask counsel if the record there showed the distance from the beginning point of the pipe line in Texas to Maryville, Missouri?

* * *

[470]

MR. McALLISTER: We have a note in one of our records here of 455.5 miles. That is to Maryville.

MR. SPARKS: That is right.

MR. McALLISTER: And Maryville, I think, has been accepted and recognized by all parties as the first municipality east of the Missouri River along the route of the Michigan-Wisconsin Pipe Line where it would be possible for Michigan-Wisconsin Pipe Line, after constructing its pipe, to deliver gas for resale to the public.

MR. SPARKS: East of the Missouri.

MR. McALLISTER: East of the Missouri River.

MR. SPARKS: That is correct.

MR. McALLISTER: And that was the specification in the contract of December 11, 1945, between Phillips and Michigan-Wisconsin.

MR. SPARKS: That is correct.

PRESIDING EXAMINER: That is Maryville, Missouri, isn't it?

MR. McALLISTER: Maryville, Missouri.

Mr. Sparks, we have a problem of proving some of these documents that were supplied from the records of Phillips. It is not a difficulty but it is merely working out a

[471]

reasonable way to do it. This exhibit 21, we put in certain excerpts from the minutes of the board of directors, and I am wondering if it is going to be necessary for me to show that that was supplied by Phillips.

MR. SPARKS: No, sir, it will not. We will not agree to the admissibility of it, but—

MR. McALLISTER (interrupting): But it is a true copy of the minutes insofar as they are reproduced.

MR. SPARKS: Correct.

MR. McALLISTER: I am going to offer that Exhibit 21 at this time, Mr. Examiner, because I propose to ask Mr. Adams certain questions regarding it.

MR. SPARKS: If the Examiner has the exhibit before him—

PRESIDING EXAMINER: Yes, I do.

MR. SPARKS: You notice that the first page of the exhibit merely recites the place at which the meeting of the board of directors was held and the parties present and that prior minutes were reviewed.

The second and third pages of the exhibit relate to a report made by the president of negotiations of certain amendments to the gas sales contract with Michigan-Wisconsin. It is short and obviously it, on its face, relates to nothing more than rates and to a report of an estimated increased income to the company over the life of the contract as a result

[472]

of the amendment.

We object to it because it does not have any relevancy or materiality to the jurisdiction of the Federal Power Commission, and, as a matter of fact, I don't think it has any relevancy if we were hearing also the rate issue, because it does not purport to reflect any past expenses, cost, profits or otherwise.

MR. McALLISTER: Well, Mr. Examiner, it is merely part and parcel of the line of factual proof relating to the position of Phillips Petroleum Company in bringing about the modification of the contract.

Of course, you can't try a jurisdictional case without having facts and figures. You'll have dollar signs and feet and miles and Mcf and everything else in the documents which relate vitally to the matters which bear upon questions of jurisdiction.

* * *

[505]

Q. As a matter of fact, Mr. Adams, the price that you obtained in the contract of August 9, 1948, the contract with Michigan-Wisconsin, specified the highest contract price for natural gas than had ever been realized by Phillips in any contract for a supply of gas for an interstate pipe line; isn't that true? A. It might have been, as far as Phillips is concerned. However, we had an original contract, as I recall, with the Michigan-Wisconsin Pipe Line Company that we made in 1945. I do not have the exact figures, but I think the escalation price in July 1948, when the negotiations were carried on in Kansas City, was practically equal to the base price of 7.5 cents that we secured in the contract.

Q. You set that as the base price and included the escalation clauses to go on. A. At that conference we set the base price just about what the escalated price was, as I recall, and sold them gas from 40 or 50,000 acres—I believe we got the same price provision. I believe we had a base price of 7-1/2 and a top of 8-1/2 for the first five-year period. I am not exactly correct on those figures, but fairly close.

Q. The base price was 7-1/2, and it was generally accepted that that meant 8-1/2 cents as of that date? A. I think that is fairly close.

Q. Are you talking about 40 or 50,000 acres added—

A. Additional.

Q. Of that 40 or 50,000 acres added there were 28,000 acres, were there not, that were omitted in error in the original contract? A. That I am not in a position to say, I would not know.

Q. Well, I do not want to go into that. I will ask some of the others. I think it was shown before the Federal Power Commission that though there were some 40 or 50,000 acres more enumerated in the Appendix A to the contract than was enumerated in the Appendix A of the original contract, it was pointed out that of that total additional acreage some 28,000 was omitted in the original contract through error. A. That may be true, because I recall—

Q. I do not know, it was not important. In the second contract it was in—it was not in the second contract—whether or not there was additional acreage, whether it was merely a correction of an error. I will ask someone else. A. I was under the impression that was additional acreage. At least I recall—

Q. It was additional acreage technically. A. The thing that was worrying Mr. Woolfolk most in any of the negotiations that I had with him is "where am I going to get some additional gas reserves?"

Q. Do you have any idea how many acres were embodied in the first contract?

[507]

A. Acres? No, I don't recall acres, but I think we dedicated close to around what we estimated to be around three trillion cubic feet of gas reserves, three to four trillion.

Q. Three trillion I think was close. The acres, as I have noted them in one of the exhibits that has been marked for identification, show 647,000 acres. A. Getting back on this—

Q. Let me finish this point—647,000 acres. A. Are you asking me if that was the figure?

Q. I mean if it is, 40,000 is a relatively small percentage of added gas. A. That is 10 per cent, it is awfully close, a little less than that.

Q. Around 7 per cent, is it not? A. Well, 7 per cent.

* * *

[645]

W. S. ETCHIESON

resumed the stand, and having been previously duly sworn, was examined and testified further as follows:

[646]

Direct Examination (Resumed) by Mr. McAllister

* * *

[657]

Q. I think that was another question. I think I did ask you that. At one point I know I asked you that. That was Page 283, and that was to check whether there were lines from wells located in the State of Oklahoma tying into Line H between the location of the future site of Sherman booster station into the Sherman plant. If you have that, I'll take that. We can take that up here. A. There are no lines connecting to Line H between the future site of Sherman booster station and the Sherman plant.

[658]

Q. Either from wells located in the State of Texas or in the State of Oklahoma? A. That is right.

* * *

[734]

Q. Let's get at it this way, then, as far as the Sherman plant is concerned, do you have frequent changes in the mode of operation that is required in order to produce the required volumes of gas through that Sherman plant for Michigan-Wisconsin? A. We make various changes.

Q. I mean important changes. Small ones, yes, sir, but I mean changes that materially affect the volume of gas going through the plant. A. Yes, sir, we do.

Q. And that would range in volume from a maximum down to a minimum of what? Let's take in the year 1950, if that is not too large an order for you. If it is in any of these questions, well, say I can't give it to you for that long a period but I can give it to you for this month or a shorter period. A. Let me try to answer that in this way, the compressors at Michigan-Wisconsin handle approximately 25 to 30 million feet each, depending on the pressure. Very often during the day and night, they start up an engine or they take an engine off the line. When that happens, it affects our gathering system by that volume that the engine is handling. It is necessary that we go switch the gas either out or in, depending on whether they are starting up or taking off engines.

[735]

Q. You mean out or in, you mean at the well? A. Yes, sir. We have line breaks, as I have mentioned in my testimony. In a system of that size you are going to have a number of those each month.

Q. When that occurs you have to make up the gas out of some other well? A. That is right. Testing programs, I mentioned that. There may be others that I do not recall right at this time.

Q. And each one of those requires some change by cutting in or taking out from the lines some particular well or wells? A. Yes, sir, it requires a switching of gas some place.

Q. Within that system, is it sometimes necessary to take gas from what you have been calling some of your other systems to make up, or is that done very often? A. In the Sherman system we have not taken any gas from any other system since November 1, 1949, I'm sure.

Q. Would the converse of that be true, you have not during that same period switched any of the gas out of that Sherman system to one of your other systems during that period? A. That is correct.

Q. Would the same be true of the Hansford system,

[736]

except for a longer period of time probably? A. We have never delivered any gas from the Hansford system to any other system or have we received any gas into the Hansford system from any other system.

Q. When you actually cut the wells off, why, that was an entirely different major operation where you just were changing the component parts of the system? I mean when you took the wells in that southern tier of the Sherman system off, or off the Hansford system. A. Well, those wells were disconnected from the Hansford system—

Q. (Interrupting.) I mean that was a major operation and not the switching we have been talking about. A. That required the laying and connection of pipe lines.

Q. And these changes on the gas delivered through the Sherman plant and your operation of the wells that you have gauged to meet Michigan-Wisconsin's? A. Yes, sir.

Q. I mean the amount of gas that they can take or require in any day or any hour determines what you propose to produce from the various wells in that system? A. Yes, sir.

Q. Is that true in the Hansford system as well? A. That is correct.

[737]

Q. And those are the two most closely-knit systems that you have, are they not, under your supervision? A. I

737

believe those are the only two systems that are what I consider a closed system, and the Michigan-Wisconsin is dependent entirely upon the delivery from Phillips from the Sherman gathering system and Panhandle Eastern is depending upon the volume they receive from the Hansford plant from the Hansford gathering system only.

Q. The deliveries to Independent Natural Gas Company down through the Gray plant is somewhat similar but not nearly as tight as those two, isn't that true? A. Well, all the gas we deliver to Independent Natural Gas Company is delivered from our Gray gasoline plant.

Q. And are there deliveries of gas out of the Gray plant to others than Independent for Northern? A. Yes, sir. There are other deliveries from Gray plant.

Q. Local deliveries primarily? A. Yes, sir.

Q. I mean gas that is for, you might say, consumption in that relative area? A. Yes, sir.

* * *

[744]

Cross Examination by Mr. Sparks

* * *

[746]

Q. I would like for you to turn to Exhibit 15. That is a map which purports to reflect the Phillips pipe line in Gray, Wheeler and a small portion of Carson County, Texas, is that correct? A. That is correct.

Q. At the lower left-hand side of the map there are a

[747]

number of lines which come into a larger line running north and south, is that correct? A. Approximately north and south, yes, sir.

Q. Which larger line runs in the vicinity of the Annie Booster? A. That is shown to be a 16-inch line.

Q. In what direction does the gas flow which is produced from wells to the south of the Annie Booster? A. It flows to the north.

Q. Is the gas that flows through the 16-inch line compressed at the Annie Booster? A. No, it is not.

Q. What gas is compressed at the Annie Booster? A. The Annie Booster is a small installation located near the 16-inch line and gathers gas from, I believe, two leases owned by Cities Service Oil Company and Phillips Petroleum Company, and that boosts casinghead gas only.

Q. Gas through the Annie Booster is casinghead gas? A. That is correct.

Q. And is boosted into this 16-inch line, is that right? A. Yes, sir.

Q. Other than the gas through the Annie Booster is a gas which is produced from the wells which are south of the Annie Booster and is dry gas?

[748]

A. The wells located south of Annie Booster are dry gas wells.

Q. And they produce dry gas? A. Yes, sir.

[749]

Q. Now, just above the Annie booster, there is a line which begins near the west line of Gray County as a four-inch line and continues over and joins the 16-inch line with several other smaller lines leading into it. Wells which deliver gas into that line are productive of what type of gas? A. Are you speaking of the line extending due south of the Pampa plant, as shown on this Exhibit No. 15?

Q. No. I am speaking of the line which begins near the west line of Gray County, just a little bit northwest of Annie booster on this map. Do you find it? A. Yes, sir.

MR. McALLISTER: Is that the four-six-eight-ten-inch line going into the 16?

MR. SPARKS: Right.

BY MR. SPARKS:

Q. That is the line, is it not? A. Yes; that line is gathering dry sweet gas.

Q. Is the area from which that 16-inch line gathers gas generally known in the company as the Fairway area? A. It is, yes, sir.

Q. That 16-inch line as it approaches the Pampa plant becomes a 20-inch line, is that correct? A. That is correct.

Q. And is any gas taken from that line into the Pampa

[750]

plant? A. Yes, sir.

Q. There is also a line leading to the Pampa plant directly from the south of the plant, directly south of the plant. Do you find that line? It starts with a line which is marked as a four-inch line? A. Yes, sir, I have located it.

Q. The map shows there are a number of stubs off of that line. What type of gas is produced from the wells which are connected to that line? A. Dry sweet gas wells.

Q. And does that line deliver gas directly into the Pampa plant? A. No, sir, it does not.

Q. Does it connect with the, adjoin with the, 20-inch line that comes from the Fairway area? A. It does, yes sir.

MR. McALLISTER: What is the size of that line? It is not shown on this map, that main stem there that runs down.

MR. SPARKS: To the south?

MR. McALLISTER: To the south.

THE WITNESS: It is a six-inch leaving the plant; no, I believe it is an eight-inch leaving the plant and there is some six-inch and four-inch line.

BY MR. SPARKS:

[751]

Q. Does that line from the south connect with the 20-inch line from the southwest prior to the take-off to the Pampa plant? A. There is a junction point there where those lines connect. However, I believe that the line from the south connects downstream from the Pampa plant take-off.

MR. McALLISTER: Connects with what?

THE WITNESS: The 20-inch line from the southwest.

BY MR. SPARKS:

Q. Now, there is also a line that shows to run almost due west from the Pampa plant or east to the plant. What type of gas is produced from the wells which are delivering into that line? A. That is dry gas.

Q. Does that line deliver gas directly into Pampa plant or into the 20-inch from the southwest? A. It delivers gas direct into Pampa plant.

Q. And all of the gas taken through that line, therefore, is processed at the Pampa plant, is that right? A. It is all being processed there at the present time, when I left the field.

Q. Are there connections whereby that gas can be taken into the 20-inch line and by-pass the plant? A. Yes, sir.

Q. Is that ever done?

A. I don't recall that it has been done recently.

Q. There is also a line which runs toward the Pampa plant from the southeast, which has marked on it the twelve-sixteen-twenty. What is the area known as from which that line runs? A. The Little Seminole area.

Q. What type of gas is produced from the wells which deliver the gas into that line? A. Casing-head gas.

Q. According to your best recollection, are all of the lines, casing-head lines, in that area shown on the map or can you tell? A. Well, I can't tell for sure, but it doesn't look to me like all the casing-head lines are shown.

Q. The casing-head gas which comes through the 20-inch line from the Little Seminole area, is that gas delivered into the Pampa plant? A. It is all processed at the Pampa gasoline plant.

Q. Is that gas brought into the plant by compressors? A. It is, yes, sir.

Q. There are also some lines from the north of the Pampa plant shown to run to the plant on Exhibit 15. What type of gas is produced from the wells which are connected to that line? A. Casing-head gas.

Q. As far as you can tell from an examination of the map, are all of the casing-head lines which deliver gas into that line and through the plant shown on the map? A. I would say that they are not all shown on this map.

Q. That line begins several miles north of the Pampa plant. There is also a line near its beginning point which is shown on the map to run to North plant. There is a break between those two. Are there lines connecting those two lines at this time? A. No, sir.

Q. There is a break in the field between those two? A. Yes, sir.

Q. So that it is not mechanically possible by turning valves or a gauge to flow gas from one line down to the other? A. Not at that point, no, sir.

Q. The gas which flows through from the casing-head wells to the north of the Pampa plant, is that processed at the Pampa plant? A. It is, yes, sir.

Q. Is it brought in by compressors? A. It is.

Q. There are also some short lines lying just to the north and somewhat to the northwest of the Pampa plant.

[754]

What type of gas is produced from the wells delivering into those lines? A. Casing-head gas.

Q. And that is delivered to and processed at the Pampa plant? A. Yes, sir.

Q. Is all of the casing-head gas which is processed in the Pampa plant brought into the plant through compressors? A. Yes, sir. It is necessary that we pull vacuum on the gathering systems in order to bring the casing-head gas into the plant.

Q. I guess we'd have to accept from that the casing-head gas was run through the Annie boosters? A. Well, it is compressed by the Annie booster and then discharged into the high pressure system.

Correct. Is the gas which is produced from the dry gas wells and the gas which is produced from the casing-head gas wells, taken into the plant through various lines, comingled at the plant before being processed? A. It is comingled before it enters the absorbers.

Q. Comingled on the discharge side of the compressors as far as the casing-head gas is concerned? A. That is correct.

Q. What disposition or utilization is made of the residue gas remaining after the extraction of the natural

[755]

gasoline liquid from the gas processed at the Pampa plant? A. The sales at Pampa plant of residue gas is to the Texas-Elf Carbon Company, and that is all the sales I recall.

Q. Does that include all the dispositions of the residue gas? A. No. There is residue gas used for plant fuel, too.

Q. Is any of it returned to leases? A. Oh, yes, we return residue back to the leases from which we are purchasing raw casing-head gas. Q. Does the company own and operate the system of residue lease return lines through which this residue gas is delivered back to the oil leases for lease fuel? A. Yes, sir.

Q. And lease operations. And they come under your supervision as well as the gathering line? A. They do, yes, sir.

Q. Now, the 20-inch coming from the southwest shows on this map as I read it to connect to the 20-inch from the Little Seminole area, is that correct? A. No, it is not.

Q. The 20-inch from the Little Seminole area delivers directly into the Pampa plant? A. That is right.

Q. The gas through the 20-inch from the southwest and after the junction with the line from the due south which is not taken off at the Pampa plant flows in a northeasterly direction through a line which is marked "20" on this map, is that right? A. That is correct.

Q. Just to the north of that line there is a mark "Bowers plant", with a square and the line from the 20-inch up to the Bowers plant, is that a tie-over or take-up line from the 20-inch to the Bowers plant? A. There is a take-off line off of the 20-inch into the Bowers plant, yes, sir.

Q. Does that appear to be the approximate position, as far as you can tell from this map of that tie-over line? A. Yes, sir.

[757]

Q. Is a part of the gas carried through that 20-inch line processed at the Bowers plant? A. It is, yes, sir.

Q. Is there other gas processed at the Bowers plant? A. Yes, sir, there is other gas processed at the Bowers plant.

Q. Is all of the other gas processed at the Bowers plant casinghead gas? A. No. There is gas from two or three dry gas wells processed at the Bowers plant.

Q. In addition to that taken off of the 20-inch? A. That is correct.

Q. I notice from the map that there is shown two other lines leading to the Bowers plant. Are there other lines than those shown on the map? A. Yes, sir, there are.

Q. Which lead to the Bowers plant? A. Yes, sir.

Q. Is the casinghead gas and the dry gas which is processed in the Bowers plant co-mingled before being processed through the absorbers? A. It is.

Q. What disposition is made of the residue gas remaining after extraction of the gasoline from the gas at the Bowers plant?

[758]

A. Residue from the Bowers plant goes to the Texas-Elf Carbon Company and also returned to leases, to lease operation, and camp fuel.

Q. Camp fuel? A. Camp fuel.

Q. Where is the Texas-Elf Carbon Company's plant located, just approximately, from, say, the Bowers plant? A. It is located approximately two miles west.

Q. This 20-inch line between the Pampa plant and

Gray plant continues on up to Gray plant. That is correct, is it not? A. That is correct.

Q. Is the balance of the gas—what utilization is made of the balance of the gas through that line after the deliveries from the line to Pampa plant and Bowers plant? A. The balance of the gas is processed at Gray Gasoline plant.

Q. If you will turn to the right-hand side of the map, I find the line which begins with a 10-inch line running north and south in the lower right-hand corner of the map. Do you find that point? A. I have, yes, sir.

Q. That line is joined by several lines and then turns to the northwest at a point that is marked 12-D on this map. Do you find that?

[759]

A. Yes, sir, I find that.

Q. At that point what is the type of gas that is moved through that line? A. Dry gas.

Q. All of it is produced from dry gas wells; is that right? A. All of it is produced from dry gas wells.

Q. From the west, you find the line which is marked 8, and which would appear from the map to be tied into a line running north to Wheeler booster marked 12 and 16 and also tying into this line which is marked 12-D. Is that a correct reflection of the situation? A. Yes, sir, it is.

Q. What is the direction of the flow of gas through that 8-inch line? Does it flow east to the 12-E line, or west up to the 12-16 line? A. That system is all open, and the 8-inch line between the 12-inch line, marked 12-D on Exhibit 15, and the 12-inch and 16-inch lines extending south from Wheeler booster serves as a loop, and it depends upon the operations at the Wheeler booster, which way the gas will flow through that pipe line.

Q. Is all of the gas in that loop dry gas, or is it casinghead? A. It is all dry gas.

Q. Now, from the east I see a line which is marked

[760]

3-4-6-8. Do you find that? It has a hook on it. A. I do, yes, sir.

Q. What is the character of gas which is gathered through that line? A. It is dry gas.

Q. Is it delivered in the line 12-D? A. No, sir, it is not.

Q. From the junction point of that line with a line from the southeast marked 12-D, there are two lines, are there not, shown to the Wheeler booster? A. That is correct.

Q. Are those lines connected at the point of juncture? A. They are connected on the discharge of the compressor.

Q. Does the gas through both of those lines go through compressors? A. It does.

Q. Directly to the east of Wheeler booster, I find a series of heavier lines. What type of gas is moved through those lines? A. Casinghead gas.

Q. Is that gas taken into the booster? A. It is.

Q. Is it brought in by compressors? A. It is, yes, sir.

Q. To the north and west of Wheeler booster there is a

[761]

small line marked 6. What type of gas moves through that line? A. That is also casinghead gas.

Q. And is it brought into the Wheeler booster by compressors? A. Yes, sir.

Q. Are there any lines in the ground in the vicinity of the Wheeler booster which do not appear on this map, so far as you can tell from observing the map? A. I don't notice any residue return lines.

Q. I am talking about raw gas gathering lines. A. I would say not all the lines are on the casinghead system or the dry gas system, but I would have to check that.

Q. It is a fact, is it not, that none of the residue return lines appear on the map? A. I have not noticed any.

Q. Is all of the gas which comes into the Wheeler booster compressed at the booster, or is part of it by-passing the compressor? A. It is all compressed at the booster.

Q. And moves in what direction from the booster? A. It moves in a westerly direction.

Q. Through the line marked 20-inch line? A. Yes, sir.

Q. I find on the map just north of that 20-inch line a

[762]

square Lefors plant. That is a gasoline plant of Phillips Petroleum Company, is it not? A. That is correct.

Q. Is any gas taken from the 20-inch line and processed in Lefors plant? A. Yes, sir, there is.

* * *

[766]

Q. What disposition is made of the residue gas after extraction of the natural gas liquids at the Gray plant? A. The residue is delivered to Independent Natural Gas Company.

Q. All of it or part of it?

[767]

A. Part of it. Part of the gas is delivered back to the field for lease operation and development. Part of it is delivered for camp fuel. Part of it is utilized for plant fuel, and we also deliver gas to the Texas-Elf Carbon Company from the Gray plant.

* * *

[775]

Mr. Etchieson, there has been considerable testimony here with reference to sweet and sour gas. Are the two classes of gas, sweet and sour, defined by Texas law? A. Yes, sir, they are.

[776]

Q. What is the statutory definition of sour gas? A. The Railroad Commission describes gas with a hydrogen sulphide content of 1-1/2 grains per hundred cubic feet as sour gas, and gas with a lesser H2S content is classified as sweet gas.

Q. Does that also include a specification with reference to total sulphur content? A. No. The total sulphur content is 20 grains per hundred cubic feet.

Q. In other words, sour gas is gas which contains more than a grain and a half of hydrogen sulphide, H2S, or more than 20 grains of total sulphur content per hundred cubic feet? A. That is correct.

Q. Sweet gas is gas which contains less than those amounts? A. That is correct.

* * *

[777]

Q. The definition, just to get it word for word as it is in the statute, appears in Article 6008, Section 2, Subsection (g). "The term 'sour gas' shall mean any gas containing more than 1-1/2 grains of hydrogen sulphide per 100 cubic feet, or more than 30 grains of total sulphur per 100 cubic feet, or gas which in its natural state is found by the Commission to be unfit for use in generating light or fuel for domestic purposes."

Do you know of any orders of the Railroad Commission with reference to the last provision concerning the finding by the Commission of gas as being unfit for generating light and fuel which would not be sour gas, as otherwise defined by the statute? A. No, I do not.

Q. Subsection (h) provides:

> "The term 'sweet gas' shall mean all natural gas except 'sour gas' and 'casinghead gas' ".

Mr. Etchieson, we sometimes speak of casinghead gas as

[778]

being sour or sweet, do we not? A. That is correct.

Q. But there is no statutory or Railroad Commission classification of casinghead gas as between sour and sweet, is there? A. I know of no classification that the Commission has for determining whether or not casinghead is sweet or sour.

Q. The rules of the Texas Railroad Commission and its conservation laws provide for various uses which can be made lawfully of the various types of gas, sweet and sour and casinghead, do they not? A. That is correct.

MR. McALLISTER: Might I ask Mr. Etchieson what the basis for classification is as determined by him in his operations, for the casinghead gas that you list as sour and sweet?

THE WITNESS: I consider casinghead gas with a grain and a half of H2S per hundred cubic feet as sour gas.

MR. McALLISTER: Your operations are gauged according to that? What I mean by that is, casinghead gas with that sulphur content would go through a desulphurizer before it would go into a stream of gas destined for further pipe line movement?

THE WITNESS: Yes, it would. If the composite was greater than a grain and a half, we would treat it.

MR. McALLISTER: You might also treat it if the sales

[779]

contract that you had required a lesser sulphur content than 1-1/2 grains per hundred cubic feet?

THE WITNESS: Oh, yes, sir, that is correct.

MR. McALLISTER: Some of your pipe line bore a half grain as a maximum, did they not, or do you know?

THE WITNESS: I don't know. I recall one grain as a maximum, but I am not sure of that half grain.

* * *

[917]

Q. Mr. Etchieson, yesterday you were asked if there were some instances in which Phillips purchased gas but do not go clear to the wells, with its lines. Do you remember that? A. Yes, sir.

Q. Have you checked into that to determine those instances? A. I have, yes, sir.

Q. Is it common in many cases for you, as a gatherer in the Panhandle Field, to gather gas from the separators on casing-head leases rather than from the well connections? A. Yes, sir; we very often gather gas from the separator.

Q. Who owns the lines from the wells to the separators? A. The producer or the owner of the lease.

Q. Is the separator ordinarily located on the lease? A. It is operated on the lease usually on a central point on the lease.

Q. Are there any other instances than connections to separators where you take gas from wells and do not own the lines clear up to the well?

A. Yes, sir. I recall two such instances in the Pampa area.

Q. Name one of them. Identify the lease and the owner, producer. A. One of those leases is the Holt Brothers-Cobb lease.

Q. Where is that lease located? A. That lease is located slightly north and east of our Lefors gasoline plant in Gray County, Texas.

Q. How long is the line of the lease operator or lease owner before it delivers it into Phillips' gathering lines? A. It is a distance of approximately three quarters of a mile.

Q. And in what line is that gas delivered? A. The 20-inch gathering line from Wheeler County.

Q. Do you know the size of that line? I mean the lease owner's line, the three quarters of a mile line. A. I happen to, yes ,sir. It is a two-inch.

Q. And from how many wells is the gas produced which is given through that line? A. Two wells.

Q. You mentioned another instance in the Pampa area. A. Yes, sir. Gathering line extending west from our Pampa gasoline plant, we are purchasing gas from the Service Drilling Company off of the discharge of a field booster, and that is casing-head gas, and I would like to correct

[919]

a statement I made in the record yesterday. I believe I testified that all the gas in that particular gathering system was dry gas. However, this small volume received from the Service Drilling Company is not.

* * *

[934]

Redirect Examination by Mr. McAllister

* * *

[942]

Q. As I take your testimony you have never made a study as to whether or not one line ought to be more particularly classified as a gathering line or classified as a transmission

[943]

line or classified in some other fashion? A. Mr. McAllister, in the field we Phillips boys consider that whole system a gathering system and refer to it as a gathering system.

* * *

[993]

MASON G. WALTERS

[994]

was recalled as a witness, and having been previously duly sworn, was examined and testified further as follows:

Direct Examination (Resumed) by Mr. McAllister

Q. Mr. Walters, you are the same Mason G. Walters that appeared in this case, previously sworn and testified? A. Yes, I am.

Q. Did you have prepared, or prepare yourself, an exhibit which depicts in graphic form the plant layout for the Sherman and Hansford plants, the Sneed plant, the Gray plant, the Dumas plant, the Eunice plant, the Fullerton plant, the Goldsmith plant and the Crane plant of Phillips Petroleum Company, and when I refer to "plant" there, I mean gasoline plant. A. I have had such sketches prepared, yes, sir.

Q. Under your supervision and direction? A. Yes, sir.

MR. McALLISTER: I would like to state for the record, Mr. Examiner, that the graphs that we had prepared, we are advised by Mr. Sparks this morning there have been some changes with respect to three of those graphs, the Sherman-Hansford plants, the Sneed plant, and the Dumas plant, and out of the exhibit we have prepared we have stripped the graphs from that exhibit that we had prepared and we are substituting those with those which were supplied to us this morning by Mr. Sparks. He has been very gracious in supplying us sufficient

[995]

copies so that the graphs with respect to plants that I have named as being supplied by Mr. Sparks to us this morning were not actually prepared by Mr. Mason Walters. We have taken the ones he prepared out in order that we might have now on the record at this time the most up-to-date information on the plant layouts in those plans, the Sherman-Hansford, the Dumas, and the Sneed plants, so that without asking Mr. Walters where they came from may we have a stipulation, Mr. Sparks, that they are as near up to date and as complete and as true and correct as it is possible to make them?

MR. SPARKS: Certainly.

MR. McALLISTER: I am going to ask that the main exhibit which we had prepared be marked for identification at this time as Exhibit No. 45.

PRESIDING EXAMINER: It will be so marked.

* * *

MR. McALLISTER: Before I pass out the corrected sheets, Mr. Examiner, I would like to have these designations provided for the individual graphs or maps:

[996]

I ask that the corrected graph covering the Sherman-Hansford plants be marked for identification as Exhibit 45-A.

PRESIDING EXAMINER: It will be so marked.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 45-A FOR IDENTIFICATION.)

MR. McALLISTER: I ask that the corrected graph for the Sneed plant be marked for identification as Exhibit 45-B.

PRESIDING EXAMINER: It will be so marked.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 45-B FOR IDENTIFICATION.)

MR. McALLISTER: I ask that the graph for the Gray plant, which is in the folder, be marked for identification as Exhibit 45-C.

PRESIDING EXAMINER: It will be so marked.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 45-C FOR IDENTIFICATION.)

MR. McALLISTER: I ask that the corrected plan for the Dumas plant be marked for identification as Exhibit 45-D.

PRESIDING EXAMINER: It will be so marked.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 45-D FOR IDENTIFICATION.)

MR. McALLISTER: The next four graphs are in the folder, that for the Eunice plant, and I ask that that be marked for identification as Exhibit 45-E.

PRESIDING EXAMINER: That is the Eunice plant?

[997]

MR. McALLISTER: Yes. The graph of the Eunice plant is 45-E.

PRESIDING EXAMINER: That will be so marked.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 45-E FOR IDENTIFICATION.)

MR. McALLISTER: The graph for the Fullerton plant, Mr. Examiner, I ask that that be marked for identification as Exhibit 45-F.

PRESIDING EXAMINER: That will be so marked.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 45-F FOR IDENTIFICATION.)

MR. McALLISTER: I ask that the layout for the Goldsmith plant be marked for identification as Exhibit 45-G.

PRESIDING EXAMINER: That may be so marked.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 45-G FOR IDENTIFICATION.)

MR. McALLISTER: And I ask that the graph showing the plant layout of the Crane plant be marked for identification as Exhibit 45-H.

PRESIDING EXAMINER: That will be so marked.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 45-H FOR IDENTIFICATION.)

MR. McALLISTER: I would like to request, if we may, that when the reporters bind in those graphs we will do it for them so that they will all be impressed within the folder

[998]

in the official file copy.

BY MR. McALLISTER:

Q. Mr. Walters, will you, by reference to Exhibit 45, and particularly to the exhibits marked for identification as Exhibits 45-C, 45-E, 45-F, 45-G and 45-H, state for the record the source from which data and information shown on those maps or graphs was obtained. A. The data shown on those maps or graphs which you have just mentioned was obtained from the Phillips Petroleum Company sketches which they supplied to us.

Q. And in preparing these graphs which I have just referred to and identified, did you change and modify the information on the drawings submitted to you by Phillips? A. There have been no changes on those drawings except the legend.

Q. The legend appearing in the lower right-hand corner was provided by you? A. That is right.

Q. And otherwise you have reflected on these drawings, as I have previously identified them, all of the data and information contained upon the drawings submitted to you by Phillips Petroleum Company? A. Yes, sir.

Q. And have you recently checked those to determine whether or not in relation to the drawings supplied or later

[999]

information that you may have obtained, that as far as you can determine from that information which you have, they are complete? A. Yes, sir.

[1000]

Q. Do you have anything further to state, Mr. Walters, with respect to the drawings which have been identified as Exhibits 45C, 45D, 45E, 45F, 45G and 45H? I believe I included 45D in there. That should be eliminated. It should be 45C, E, F, G, and H. If you have no comment to make or observation, Mr. Walters, it is perfectly all right to say so. A. I might say that these were received by our staff in Bartlesville on November 6, 1950, and they are the latest data that we have up until the present time.

Q. On the plant lay-outs? A. On the plant lay-outs.

Q. And the graphs which were the drawings showing the plant lay-out of the Sherman and Hansford plants, Sneed plant, and the Dumas plant, which have been supplanted this morning by later drawings, as you had inserted them in the general exhibit and which have been removed, had been prepared in the same manner and from like information as that which you have described with respect to the other exhibits which I have identified? A. That is correct.

MR. McALLISTER: Mr. Examiner, I offer in evidence Exhibits 45A, 45B and 45D on the basis of the stipulation which I have with Mr. Sparks, as stated on the record, and with respect to the other exhibits, Exhibits 45C, 45E, 45F

45G and 45H, I offer those in evidence as supported by the testimony of Mr. Walters.

PRESIDING EXAMINER: Is there any objection?

MR. SPARKS: No objection.

PRESIDING EXAMINER: Exhibit No. 45, consisting of sub-exhibits 45A to 45H, inclusive, are received in evidence.

(THE DOCUMENTS ABOVE REFERRED TO WERE RECEIVED IN EVIDENCE AS EXHIBITS 45 to 45H, inclusive.)

* * *

Cross-Examination by Mr. Sparks

Q. Mr. Walters, on the sketches that were furnished to you, so that the record will be clear, it was not represented to you that all of the mechanical equipment located on the plant was shown in the sketches, was it? A. That is correct; just the principal equipment and a sketch showing the general flow of gas through the plants.

* * *

[1002]

A. W. PARIS

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. McAllister

Q. What is your full name, Mr. Paris? A. A. W. Paris.

Q. I believe you are employed by Phillips Petroleum Company? A. Yes, sir.

[1003]

Q. And have been for a number of years? A. Yes, sir.

Q. When did you first enter the employment of Phillips Petroleum Company? A. November 10, 1923.

Q. And you have been employed continuously by them since that time, have you? A. Yes, sir.

Q. Will you state briefly for the record what your education and experience has been, please? A. Education, high school; experience, 35 years in the industry.

1003

Q. Will you just briefly outline what different positions you have had with Phillips, where you began and the important changes in your employment up to the time you entered your present duties? A. My first job with Phillips was as a stillman. My next job, I believe, was a maintenance foreman in field maintenance. I believe my next job was a plant superintendent's job, and the next district superintendent.

Q. District superintendent of— A. (Interrupting.) Operations and maintenance of gasoline plants and gathering systems.

* * *

[1004]

Q. I believe you have supervision over the plants that we have been naming this morning with respect to certain drawings that have been marked for identification as the Sherman and Hansford plants, the Sneed plant, the Gray plant, the Dumas plant, all of those are under your supervision? A. That is correct.

Q. Do you have supervision over the Eunice, Fullerton, Goldsmith and Crane plants? A. No, sir.

* * *

[1018]

Q. With respect to the lines you have described as the lines which bring gas into the Sherman plant, will you state for the record, Mr. Paris, just where the gas from each of those five lines, the four 24-inch lines and the one 16-inch line, is metered into the plant. I say "into the plant." Maybe

[1019]

it is inside of the plant. A. Yes, sir.

I think if you will notice, Mr. McAllister, there are two vessels there indicated as sweet gas scrubbers and sour gas scrubbers.

Q. That is right. A. Right on the outlet of those scrubbers there are meters located, and that is the point where the gas into Sherman plant is measured.

Q. Does that say right above those on the outlet side of those scrubbers, meters 4, and then meters 3? Is that the number of meters? A. That is the number of meters, yes, sir.

Q. So that there is a bank of meters there, I suppose, connected to a header; is that right? A. That is right, yes, sir.

Q. And by this drawing that we have here, does that mean that the only gas going through these sour gas scrubbers is the gas coming off of line O? A. No, sir.

Q. I notice on the 24-inch line, named mixed, you have two by-passes; one is the 24-inch — that is line N, 24-inch mixed — there are two by-passes leading off of that line; one is a 24-inch by-pass and the other is a 12-inch by-pass. There are some letters in a little square there marked "meter" in these 12-inch by-passes.

[1020]

Q. What would be the purpose of the 12-inch by-pass as shown on this drawing? A. That is a by-pass through which we control the amount of gas out of the mixed line or the in line into the sweet stream.

1020

Q. Well, you have to synchronize, so to speak, the operation of the 12-inch by-pass and the 24-inch by-pass to handle all of the gas coming through the 24-inch line, which is Line N? A. That is right. You might wonder why a by-pass when there is a valve indicated going right into the sweet header off of Line N, but that is a 24-inch valve and it is very difficult to control the flow through a valve that large, so we put the small by-pass in there with a meter in it. We are limited to the amount of gas we can take from the mixed or in line into the sweet system for the reason that it would make that stream sour also, so we can't put in only so much of it and we put in a small by-pass with a meter on it which will give us an indication of the amount of gas we are putting in there and enable us to control the plant, and the balance of it goes around to the 24-inch by-pass through the sour stream.

* * *

[1034]

Q. It is a continuous flow of gas from the lines leading into the plant through the plant and out through the residue lines to a connection with Michigan-Wisconsin Pipe Line Company? A. That is true with respect to the gas. Some of these vapors are compressed. The vapors we have been talking about go back in there.

* * *

[1045]

Q. Then it is true, is it not, that this plant as operated and its operations as to volume was gauged each day by the volume of gas to be delivered, or which can be delivered to Michigan-Wisconsin? A. If I understand your question you mean the volume of gas that we process through the plant is gauged by the volumes received from us by Michigan-Wisconsin; is that what you mean?

Q. What they can take or what they want or what you can deliver to them.

[1046]

A. Yes, I think that is right.

Q. I do not say it is their whim at all, but whatever they can take or whatever they require fixes the volume that you can process or do process through the plant? A. That is right.

Q. In other words, it is not the reverse of that, that you process what you care or determine yourself, and then you give it to them and they have to take what you give them, it is just the reverse of that? A. That is right. That, of course, within the limits of the contract.

* * *

[1048]

Q. At all times from the point where gas enters the plant to the point where gas goes out of the plant there is a continuous flow when the plant is in operation? A. That is right.

Q. And except when the lines leading into the plant are valved off for some reason there is a continuous flow through all those lines leading into the plant and through

[1049]

the plant and on out, and, of course, necessarily there is a flow all the way from the well at the pressure which is generated out of the well? A. There is no boosting between the well and that point.

Q. That is right, and there is no boosting on the Sherman system anywhere? A. No, sir.

Q. I think the question and answer is complete, but that is a continuous flow all the way through the system, through the plant and over to connect with the Michigan-Wisconsin? A. I wouldn't say it was a continuous flow through all of the lines, but there is a continuous flow. There may be one line shut down for repairs or something, but the lines that are in service and open, there is a continuous flow except you may have emergencies or something that stops the flow.

* * *

[1082]

Q. In this Dumas plant do you have streams of sweet and sour gas? I am referring now to Exhibit 45-D, which is

[1083]

the Dumas plant. Are there streams of sweet and sour gas going through that plant for processing? A. Streams of sour gas only.

Q. Streams of sour gas only? A. Yes, sir. I mean by that it is sour at the point that the plant processes it.

Q. Sour as it flows into the plant? A. That is right.

Q. And all of the gas into that plant goes through that 24-inch line at the upper right-hand corner of Exhibit 45-D, where it is shown to connect with what is termed "Inlet scrubbers (3)"; is that right? A. That is right.

Q. And the first meter on that flow of gas is beyond the inlet scrubbers — and when I say "beyond" I mean as the lines are drawn — where there are six meters; is that right? A. That is right.

Q. And that is a bank of meters? A. Yes, sir.

Q. Are those meters so designed that they show the pressure of the gas that passes that point? A. Yes, sir.

Q. Then that flow of gas goes on to what is termed as a "gas treater"; is that right? A. That is right.

[1084]

Q. And that is a desulphurizer? A. That is right.

Q. You show four meters on the discharge of the gas treater. Why is that gas metered there again? A. Those are control meters for balancing the flow through the treaters.

Q. Through the gas treaters? A. Yes, sir.

Q. There is a meter on each run, so to speak. A. Each contactor has its own meter, so you can tell how much gas is passing through each one of them.

Q. So that not one will be overloaded to the point where it will not perform the process for which it is designed? A. That is correct.

Q. At what point in the Dumas plant operation do you measure the sulphur content remaining in the residue gas stream? A. We measure it — we are testing constantly downstream from the treater. That is done every hour or so during the day.

Q. You take a sample of the gas that comes out of these treaters and test it for sulphur content? A. That is not the quantity of sulphur, that is merely an indication whether it is sweet or sour.

* * *

[1094]

Q. As I understand the diagram, which is Exhibit 45-D, the one that you have before you showing, you might say, the flow diagram of the Dumas plant, the gas coming in through the treater which we talked about a moment ago, then goes through the plant absorbers — you have a bank of six of them — and then individual meters on each one of the units, and the gas goes on out of the plant absorbers out through a 24-inch line to the El Paso Natural Gas Company shown down relatively to the bottom left-hand corner of the drawing; is that right? A. That is right.

Q. Where you show a meter just to the left of the line leading out of the plant absorbers from the plant fractionator, that is the same situation we had with respect to the Sherman plant where the gas is from the gasoline extracting facilities where some of the lighter hydrocarbons flow off of that and come back into the stream of residue gas; isn't that right? A. That is the point where the overhead vapors could come back into the stream.

Q. Could come back in? A. Yes, sir.

Q. But is that one of the points at which you control the volume flowing in there in order to maintain your Btu content in the residue gas going to El Paso, or where you add Btus, if that is desired?

[1095]

A. That is where we would dispose of the light hydrocarbons off of the gasoline which we did not wish to retain in the gasoline, if we had any. At the present time we are not operating the fractionators, therefore there are no vapors entering at that point.

* * *

[1103]

Q. You mentioned the words "gathering system" and so on. Have you ever made a study to determine whether all of the lines that are connected to a system or to the system that serves the Dumas plant are actually gathering lines or whether some of those lines might not better be classified

[1104]

as field lines or whether some of them ought to be classified as transmission lines? Have you ever made such a study to determine the proper classification of those lines? A. Well, I wouldn't know on what basis to start such a study in the first place, but throughout my 35 years in the industry it has never been known as anything else, except a gathering system.

Q. I mean that is the way you generally refer to it? A. Always have, yes, sir.

Q. But that system has changed very materially over those 35 years? A. The purpose of it hasn't.

Q. I didn't say that. The lines, the size of the lines, the connections, the plants, very, very materially have changed over that period of time? A. Are you referring to these particular plants?

Q. I am referring to these particular plants. A. Well, yes, because they weren't there at that time.

Q. They weren't there at that time at all. A. No, sir.

Q. And all these gathering systems are designed to provide a backbone line or a series of backbone lines leading into a plant and from those backbone lines or main lines you have smaller lines or lateral lines leading off

[1105]

from them, that is general design, is it not? A. Oh, yes, we have just a fan-shaped system or it might be most any kind of shape.

Q. But it all starts out with a stem line, of large diameter, which provides the backbone of whatever you are going to do in one area of a field and then you take your leads off of that to serve the wells that are to be tied into this system, isn't that right? A. Yes, I think that is right. Certainly, because your greater volume is near your processing point.

Q. Sure, you have to do it that way. A. And the lines would naturally be larger at that point.

* * *

[1108]

Q. I want to ask you a few questions — I do not think I will be able to finish all these questions this afternoon — about the Sneed plant. That is Exhibit 45-B. Are you familiar with the operation of the Sneed plant?

[1109]

A. Generally, yes, sir.

Q. It has been in operation for quite some time. A. Yes.

Q. Were you not superintendent of that plant at one time? A. No, sir.

Q. You were not? A. No.

Q. This plant is operated in a manner that differs somewhat from the other plants that we have been discussing this morning, the Dumas and the Sherman plant, is it not? I do not mean the equipment or physically, in that the gas is compressed by Panhandle before it passes through the absorbers of Phillips Petroleum Company. A. That is right.

Q. Just where do the lines indicate the flow of gas into the plant? Is that in the upper right-hand corner just to the right of what is termed the scrubbers, 24-inch field gas to plant? A. Is that Panhandle gas you are speaking of?

Q. No, that is Phillips gas. A. Yes, Phillips gas enters at that point.

Q. And that gas of Phillips goes through these scrubbers, it is metered, and then goes to a compressor. Those are all the facilities of Phillips; is that right?

[1110]

A. That is true.

Q. Then it goes through a gas treater, and at that point the gas treater, all of the gas going through that is Phillips gas; is that right? A. I do not know where the title changes hands on that gas, Mr. McAllister, but I would say at that point it is Phillips gas there.

Q. It is Phillips gas at that point. I was not thinking so much of ownership as gas produced and brought into the plant through lines wholly owned by Phillips, and that is true at that point, all the gas at that point runs into the plant through pipe lines wholly owned by Phillips; isn't that right? A. I don't know about the ownership. We operate the lines. Whether they are wholly owned or not, I do not know.

Q. I mean you operate them? A. Yes, sir.

Q. That is perfectly satisfactory. A. I consider them Phillips lines.

Q. That is the same way I did, and I was not stressing ownership or operation or what not. Maybe they do not own them, I do not know. But out of the gas treaters you go through two meters there. Would all that gas come down — there is a lead-off just beyond the meters marked as two, it goes through a six-inch line that says "treated gas to reabsorber."

Is that ordinarily valved off there so that the gas will flow through the meters — well, I am lost. How does that gas flow? A. That is just a take-off from that line, that six-inch line.

Q. A take-off? A. Yes, sir, it goes around through the reabsorber, through the reabsorber, and into the fuel system. That is a relatively small volume of gas.

Q. And that is not the main flow out of the gas treater? A. No, sir, the main flow continues on.

Q. Continues on to that elbow and then down through three additional meters; is that right? A. That is right.

Q. And comes on down to a point where it joins a stream coming in through Panhandle Eastern's line and goes through compressors there, and those compressors are Panhandle's compressors? A. That is right.

Q. Then after being compressed, the total volume, that is, the Phillips gas, and the gas coming in over the Panhandle lines goes through the compressors out of the compressors through a 24-inch line and up through the absorbers — it shows a bank of six with a meter on each one — and out of that back down through a line, a 24-inch line, which shows

[1112]

the flow of that total stream to a dehydrator; is that right? A. That is right.

Q. Is that the normal flow of the volume of gas through the joint facilities of Phillips and Panhandle? A. That is right.

Q. I don't mean joint ownership, each owns separate particular facilities that we have been talking about. A. That is right.

* * *

[1116]

Q. Are the liquid hydrocarbons obtained through the processing of natural gas in this plant piped to the fractionating plant of Phillips Petroleum Company? A. The Borger fractionating plant?

Q. Yes. A. It is.

Q. And is your answer here the same as it was with respect to the Sherman plant, that you know of no sale of liquid hydrocarbons as it comes from this plant, but that all of it goes through that line to the fractionating plant at Borger? A. I don't know of any sale. However, I would not make a positive statement on that because I am not familiar with this agreement between Phillips and Panhandle.

Q. Oh, I see. A. The liquid part of it, but outside of that I would say there is not any.

Q. Well, I was not thinking of that when I asked the question. There might be some difference here, but so far as you know all of those liquid hydrocarbons flow into the Borger fractionator? A. I know they do, yes, sir.

* * *

[1119]

MR. TORKELSON: Mr. Examiner, I have had a conversation with counsel for Phillips Petroleum, and also with counsel for the Federal Power Commission regarding certain information that I received from Madison Gas and Electric Company, Madison, Wisconsin, as to the State of Wisconsin being a consumer of natural gas purchased from Michigan - Wisconsin Pipe Line Company, and we have agreed that I may read into the record two letters that I have received from the secretary and treasurer of that company, and that when read into the record it will be stipulated that the secretary and treasurer of the company, if called as a witness in this proceeding, would testify to the same effect as his letter to me.

PRESIDING EXAMINER: That is agreeable with the Examiner.

MR. TORKELSON: I will now proceed to read the letters.

The letter is on the letterhead of Madison Gas and Electric Company, 100 North Fairchild Street, Madison 1, Wisconsin:

> "April 10, 1951, Public Service Commission of Wisconsin, State Office Building, Madison 2, Wisconsin.

"Attention Mr. William E. Torkelson, Chief Counsel.

"Gentlemen:

"This will confirm information given to your office this morning. The sales of natural gas to the State of Wisconsin, Executive Residence, at 101

Cambridge Road, Madison 4, Wisconsin, by Madison Gas and Electric Company, during the period from December 1949 when natural gas was introduced through March 31, 1951, were 1472.8 Mcf for which bills amounting to $1558.10 were rendered. The aforesaid natural gas was purchased by Madison Gas and Electric Company from Michigan-Wisconsin Pipe Line Company.

"Very truly yours,

"R. F. Stumpf,
"Secretary-Treasurer."

I also have another letter also dated April 10, 1951, and with the same address, to my attention, on the letterhead of Madison Gas and Electric Company as follows:

"This will confirm information given to Mr. O. P. Deuel of your office yesterday afternoon. The sales of natural gas by Madison Gas and Electric Company to the State of Wisconsin (University of Wisconsin account, including the University Executive Mansion) during the period from December 1949 when natural gas was introduced through March 31, 1951, were 12,482.7 Mcf, for which bills amounting to $13,479.84 were rendered. The aforesaid gas is purchased by Madison Gas and Electric Company from Michigan-Wisconsin Pipe Line Company.

"Very truly yours,

[1121]

"R. F. Stumpf,
"Secretary-Treasurer."

My understanding is, your Honor, that counsel have agreed that R. F. Stumpf, if called as a witness, would testify to the effect as stated in his letters.

MR. PURDUE: That is correct, Mr. Examiner.

PRESIDING EXAMINER: Is that your understanding, Mr. Sparks?

MR. SPARKS: That is correct.

MR. TORKELSON: We ask that the material read be received in the record.

PRESIDING EXAMINER: It will be received in evidence.

* * *

A. W. PARIS

resumed the stand as a witness, and having been previously duly sworn, was examined and testified further as follows:

* * *

Direct Examination (Resumed) by Mr. Perdue

* * *

[1122]

Q. You were, on Friday, referring to Exhibit 45-B and had been discussing the flow of gas through the Sneed plant, as depicted on that exhibit, and I believe we had just gotten the gas through the compressors of Panhandle Eastern Pipe Line Company in the lower center of the exhibit. I note that in discussing the flow of gas through the Panhandle compressors you mentioned the fact that the gas coming down the line from the Phillips gas treater when it reached a point at which you were not sure of, title passed to Panhandle Eastern Pipe Line Company.

The gas then, of course, is mixed and makes a right angle there, the line down from the Phillips plant is mixed with Panhandle Eastern raw gas flowing in from their own wells and gas they purchased from Phillips 27 Philrock wells in Moore County; is that not correct? A. The gas that we deliver through our gas treater to Panhandle Eastern is mixed with Panhandle Eastern's gas at the suction of their compressor station. I do not know what disposition they make of the gas from the 27 wells.

Q. Then the gas leaves Panhandle's compressors and

[1123]

returns once more to the Phillips' Sneed plant. Because you called attention to the fact that the title passed on its way from the treater to the Panhandle compressors, I would like to ask you if you know if title passes from

1123

Panhandle back to Phillips as the gas moves from the compressors to Phillips absorbers. A. I understand it does not.

Q. It does not? A. That is right.

Q. The gas then moves into a bank of six absorbers, I believe, after it has been compressed by Panhandle. Could you tell me at what pressure Panhandle compresses that gas. A. Approximately 500 pounds.

Q. It then moves through the Phillips' absorbers at 500 pounds. Those meters on top of the absorbers then must be control meters? A. That is right.

[1124]

Q. The gas, then, of course, leaves the absorbers and passes as depicted on Exhibit 45B once more down parallel with the line where it went to the compressors through the dehydrater, as shown on the bottom left center of 45B and into the line of Panhandle Eastern, is that correct? A. That is correct.

Q. Does that dehydrater down there belong to Panhandle Eastern? A. It does not belong to Phillips, I can answer it that way.

Q. Could you tell me the approximate pressure that the gas moves into the Sneed plant at? A. Which gas are referring to?

Q. That is on the line in the right side of 45B, 24-inch field line gas to plant, just before it enters the scrubbers, to the scrubbers. A. That is the pressure entering the compressors?

Q. Yes, sir. A. I' m not sure about that, but I believe it is about 160 pounds.

* * *

[1131]

Q. As we see on Exhibit 45-C, the gas leaves the intake compressor and moves to the right, as shown on 45-C, to a point where it passes into the absorbers and there, of course, is commingled with gas brought from Wheeler County; isn't that correct, sir?

[1132]

A. That is correct.

Q. Then the gas moves from the absorber to the left and passes direct to the left and then moves to the southwest and across the south fence of the Gray plant and moves out and over to the Independent Natural Gas Pipe Line, does it not, sir? A. That is correct.

Q. It passes through — of course there is a gas purchase meter, and that is where the gas is metered, and cost is determined to natural gas pipe line companies, is it not — or the Independent Natural Gas Pipe Line Company? A. Yes, that is where the gas is metered to Independent.

Q. Although not shown on this Exhibit 45-C almost as soon as it passes through that meter it goes through Independent Natural Gas's scrubbers, does it not, sir? A. I am not certain about that, but it appears they have some scrubbers there. I don't know about that.

Q. Then, of course, it flows into Independent Natural Gas compressor station; is that right? A. I believe that is right.

Q. Do you know what pressure it is boosted to at that pressure station, sir? A. No, sir, I do not.

Q. The 20-inch line which is marked Ing. 20 inch, and is a broken line from the absorbers to the gas purchase meter,

[1133]

do you know, sir, if that line belongs to Phillips Petroleum Company? A. I understand it does not. From a point marked "Back pressure regulators" on to the Independent compressor station is not owned by Phillips.

Q. From the regulator directly underneath the right end of the intake compressor to the gas purchase meter marked "Ing. Company Gas Purchase Meter," that line does not belong to Phillips. Do you know who does own that line, sir? A. I have always understood that Independent owned it.

Q. Could you tell me the approximate distance of that line? Let me ask it this way— A. I think it would be approximately a quarter of a mile.

Q. Could you tell me the approximate distance from the back pressure regulator to the Phillips Petroleum Company line separating the Gray plant camp and the Independent Natural Gas camp? A. Approximately 200 yards, I would say.

Q. Now the Independent Natural Gas line which carries the gas to the back pressure regulator, could you tell me the function of the back pressure regulator, sir? A. It controls the pressure on the plant.

Q. On what plant? A. On the Gray plant.

[1134]

Q. You mean it does not allow pressure to come from, say, the Independent Natural Gas compressor station and does not allow the gas to back into Gray plant; is that right? A. No, sir, it is necessary to maintain a certain pressure on the plant to operate it, and regardless of what Independent might do if they were to stop those compressors, or something of the sort, that would tend to reduce the pressure in that line between Gray and the Independent compressor station and the regulators would not permit the pressure on the plant itself to be reduced.

Q. In other words, from the back pressure regulator to the Independent Natural Gas compressor station it might be a negative pressure in that line; is that what you mean? A. I can see that it could be.

* * *

[1146]

Q. Now, on those lines coming into the Hansford plant, Lines D, E and F, they come down and make a right angle on Exhibit 45A and then seem to come to a header. Is there a header there, sir? A. That is right.

[1147]

Q. Are there any meters at that point? A. No meters.

Q. Are there any valves on Lines D, E and F before they reach that header? A. I can't answer that, sir.

Q. Then off that header we have a 24-inch wet gas line to Hansford plant, another wet-dry gas line. Now, that line passes down and into the Hansford plant absorbers, of which there are shown four. Is that a correct number, sir? A. That is correct.

Q. And the gas moving from the south into the plant, the southeast and west, in other words, from Line A, B and C, which is, in part, Texas gas, seems to join together just outside the plant fence to the south of the Hansford plant, is that right, sir? A. That is correct.

Q. They come together in a header there? A. That is correct.

Q. Are there any valves in those lines there, sir, before they are joined together? A. I am not sure about that, sir.

Q. All right, sir. Could you tell me the size of the lines, sir—well, first we see Line B joins Line C and then Line A joins what we might call B-C. We don't

[1148]

have any letter or designation on that line at all. Could you tell me what size line that is that A, B and C join together in and run across— A. When you are talking about A, B and C, now, you are losing me.

Q. There is A, B and C joined together. First B runs into C, then A runs into C. Could you tell me the size of that line as it crosses the plant? A. I believe it is a 24-inch line. I'm not positive, but I believe it is.

Q. And that line also passes directly into the Hansford plant absorbers, of which you have said there were four, is that not correct, sir? A. That is correct.

* * *

[1157]

Cross Examination by Mr. Sparks

Q. Mr. Paris, turn to Exhibit 45-A, associated with the Sherman-Hansford plants. Now, the lines that are shown on that exhibit, Mr. Paris, the red lines are lines carrying raw gas; is that correct? A. That is right.

Q. And the green lines are lines carrying residue gas. A. That is correct.

[1158]

Q. Then there are some brown lines on the exhibit. Do you find those? A. Yes, sir.

Q. Mr. McAllister on Friday went over in detail with you the manner in which the gas, the raw gas, comes into the plant through the various lines and through the tie-overs from the sweet and mixed lines and certain of the gas is taken as sweet gas, which includes some of the mixed sweet and sour gas, does it not, through a bank of three scrubbers, sweet gas scrubbers, to the left of the flow sheet? Do you find that? A. That is correct.

Q. And the other gas which includes the gas from sour lines and also part of that from the mixed or center line, is taken through the sour gas scrubbers, shown as such on the left side of the chart. Is that correct? A. That is correct.

Q. And from the sour gas scrubbers raw gas goes through the treater marked as "Gas treater," with a block on the exhibit. At the gas treater the hydrogen sulphide is removed from the gas; is that right? A. That is correct.

Q. Then gas passes from the sour gas treater and passes through a bank of five meters and comes to a point or into a line shown on the exhibit which is joined by the sweet gas line from the sweet gas scrubbers. Do you find that point on

[1159]

the chart? A. That is correct.

Q. Does the treated gas and the gas from the sweet gas scrubbers come to a common header at that point? A. It does.

Q. And is it commingled at that point? A. It is.

Q. From that common header does the gas enter the absorbers at Sherman plant? A. It does.

Q. I notice that there are two banks, shown to be two separate sets of absorbers here, one shown to have five in it and the other five. Do all those absorbers actually take off of the same common header? A. They do.

Q. From the absorbers gas passes through a meter—the residue gas passes through a meter—which is at the discharge of each absorber? A. That is correct.

Q. Mr. Paris, what is the operation which takes place in the absorbers? A. The absorbers is the point where the absorption oil is contacted with the gas for the purpose of removing the gasoline hydrocarbons from the gas.

Q. How is that operation conducted?

[1160]

A. The gas, as indicated on the diagram, enters the lower part of the absorber and flows upward and out at the top.

The absorption oil is piped into the absorber near the top and flows down, or counter-flows to the gas stream. In the absorber there are a number of what we call bubble trays which are there for the purpose of contacting the gas with the oil. The oil passes down over the bubble trays until it reaches the bottom and is what is referred to as saturated oil at that point. It has then absorbed the hydrocarbons from the gas that we take out of it.

Q. Is the oil that comes in at the top of the absorbers, and before it is contacted with the gas, normally called lean oil? A. That is correct.

Q. And after the oil has been in contact with the gas in the absorbers and comes out of the bottom of the absorbers, it is referred to as rich oil? A. That is correct.

Q. Meaning the oil which contains whatever hydrocarbons have been absorbed from the raw gas? A. That is correct.

Q. Does the absorption oil absorb only the heavy hydrocarbons which are desired for liquids, or does it also absorb some of the lighter hydrocarbons, such as methane and ethane? A. The absorption system, as we use it, is not entirely

[1161]

selective. I mean by that that we are not able to select and absorb only those hydrocarbons that we desire to keep in liquid gasoline, and some ethane is absorbed during the process.

Q. And some of all of the hydrocarbons contained in the gas which are heavier than ethane. A. That is correct.

[1162]

Q. Does the absorption process absorb into its oil all of the heavier hydrocarbons which you desire to retain as liquids? A. Of course, we attempt to design our plants where we can absorb as much of that material as possible, but I believe the economics of the situation controls that. I believe some of the heavier hydrocarbons are left in the gas after the absorption.

Q. In other words, is the absorption process as it is used by Phillips in its gasoline plants more and more selective of the heavier hydrocarbons in the gas as you move from the lighter end of the hydrocarbon range to the heavier end? A. That is correct.

Q. In other words, it absorbs a higher percentage of the pentanes, for example, than it does the normal butanes? A. That is right.

Q. And, of course, of the hexanes and pentanes? A. That is correct.

Q. These flow sheets do not depict the movement of the rich oil after it leaves the absorbers, do they? A. They do not.

Q. Not only this one but none of them that have been offered in evidence and from which you have testified? A. That is correct.

[1163]

Q. After the rich oil leaves the absorbers, I would like for you to trace it through the plant, describing the source of vapors resulting from the rich oil at the various points of equipment in the plant, and also the disposition of those vapors with regard to the Sherman plant. A. The rich oil leaves the absorbers and it flows to what we refer to as the flash tank. That is indicated on this diagram to the left of the small group of five circles just below the block indicating the gas desulphurizers, gas treater. At that point the pressure on the oil is reduced from an absorber pressure to approximately 100 pounds.

Q. And the absorber pressures here, you stated, were approximately what? A. Two hundred fifty, something in that order.

Q. And that reduction in pressure results in the creation of vapors? A. At that point, by the reduction of the pressure, the oil gives off some of the vapor.

Q. All right, now, where do those vapors go? A. Those vapors are returned to the inlet to the absorbers.

Q. Setting up a cycle, reflux cycle, is that right? A. No, I would not refer to it as reflux. The nature of the vapors off of the tank referred to as a flash tank is similar in nature to the gas from the field entering the

[1164]

absorber.

Q. Do you mean it is hydrocarbon composition and percentages of the various hydrocarbons? A. It is probably a little richer than the heavier hydrocarbons than the incoming gas from the field, but there isn't a sufficient amount of it there that we can recover it through compressing so we put it back through the absorber. That gas—I don't know how the chemists would refer to it, but it is a gas that is in solution with the oil or maybe some mechanical entrainment there that carries it through, but it is what we would refer to as rather lean vapor. Therefore, it is put directly back to the inlet of the absorbers.

Q. Where does the remaining rich oil go from the flash tank? A. From the flash tank the oil then passes through a bank of heat exchangers.

Q. What are they used for, Mr. Paris? A. Of course, a heat exchanger in the distillation process, we are attempting to heat the rich oil and cool the lean oil that has already been through the distillation process and had the hydrocarbon vapors removed, so a heat exchanger is a shell and tube affair as we use it, where the rich oil flows through tubes, it is a cold oil at that point, and the lean oil coming back from the still,

[1165]

returning from the still, is hot, so we desire to heat the rich oil and cool the lean oil, so we pass the two oils together and the hot oil gives up its heat to the cold oil and we accomplish a heat transfer in the heat exchangers in that manner.

Q. Where does it go from the heat exchangers? A. From the first bank of the heat exchangers it goes into a second vessel indicated there, labeled primary vent tank.

Q. What is the purpose of that tank? A. In passing through the first bank of heat exchangers, the rich oil has picked up some heat and due to the increased temperature the oil gives off vapors, so to unload the heat exchange system the rest of the way through we vent it in a primary vent tank, remove the vapors that have been released, due to the increased temperature of the oil at that point.

Q. Those vapors aren't vented in the air, are they? A. No, sir.

Q. They are metered out of the primary vent tank. Is that an operating meter? A. Just an operating meter is all, yes, sir.

Q. Where do the vapors from the primary vent tank go initially? A. They go to the tank indicated on the right of the

[1166]

group and labeled high stage accumulator.

Q. Let's leave them there for the moment and take up our rich oil again, and after it leaves the primary vent tank, where does the rich oil go? A. It flows through a secondary bank of heat exchangers. From the second bank of heat exchangers, into a secondary vent tank. It is vented again at that point for the same reason it was vented after passing through the first bank of heat exchangers.

Q. Now, the vapors that come from the primary vent tank and secondary vent tank, are they substantially richer in hydrocarbon content than those from the flash tank? A. Yes, sir. Each stage of venting is richer.

Q. In other words, the secondary vent tank, vapors from it, are richer than those from the primary vent tank? A. That is correct.

Q. And the vapors from the secondary vent tank pass through the make tank, is that correct? A. That is correct.

Q. Let's take up again the rich oil. Where does it move from the secondary vent tank? A. It moves from the secondary vent tank into a circle you see to the right of that and slightly below labeled Sherman plant petro-chem furnaces.

Q. What occurs in that furnace?

[1167]

A. At that point the furnaces raise the temperature up to the maximum needed for complete distillation or removal of the hydrocarbon materials from the rich oil.

Q. After the oil has been heated so as to discharge the vapors, the balance of the vapors, absorbed from the gas at the absorbers, are the two products still together as they come out of the petro-chem furnace? A. They are.

Q. Where do they move from that point? A. They move from the petro-chem furnace to what we refer to as the still.

Q. That is speaking of equipment that isn't shown on this chart, is that not right? A. That is correct.

Q. And one other question here, the movement we have been talking about of the rich gas and of the vapors is through pipe lines, except when they are in the vessels themselves, is that right? A. That is correct.

Q. What occurs in the still? A. The still is a vessel similar to an absorber, except smaller, and it has these bubble trays in it that we refer to as being in the absorber. The oil enters the top of the still or near the top.

Q. The oil and the gas vapors?

[1168]

A. The oil and the gas vapors, and flows downward through the still. Of course, at that point the vapors are being released. As the oil comes down to the lower part of the still, steam is injected at that point, just open steam, into the still. It serves the purpose of, as probably I can best describe it, to just kind of agitate the oil and cause the gasoline hydrocarbon vapors to release themselves from the oil.

[1169]

Q. At the bottom of the still we have the oil stripped of the gasoline vapors; is that right? A. That is correct.

Q. And that assumes the characteristic that is known as lean oil at that point; is that right? A. That is correct.

Q. And that lean oil is recirculated back to the absorbers to start the process all over again? A. That is correct.

Q. The vapors which have been stripped from the rich oil in the still, they come out over the top of the still? A. That is correct.

Q. And where do they go? A. They go through what we refer to as a dephlegmator. At that point any oil that may be in the vapors, or carried over with the vapors, is removed from the vapor and returned to the oil stream.

Q. In other words, the dephlegmator is for the purpose of knocking out any particles of oil which may flow over the top of the still so that they will not have absorption oil mixed in with them? A. That is correct.

Q. And the vapors then pass from the dephlegmator to where? A. To a set of cooling coils located up in the cooling

[1170]

towers indicated in the upper part of the draft. These coils are located at the tower with water spraying over them. It cools the hot vapors and condenses the liquids, or the heavier portions of the liquids in that stream. Then the uncondensed vapors would turn to the group of five vessels, the fourth one from the left labeled "Make tank."

Q. In other words, the portion of the vapors which have been liquefied in the cooling towers and the remaining hydrocarbons which were still in the vapor stage are taken from the same line into the make tank where the liquids are accumulated in the bottom of the tank and the vapors are taken off over the top of the tank; is that correct? A. That is correct.

Q. Let us take the vapors from the top of the make tank, and, incidentally, the vapors from the secondary vent tank are also discharged into the make tank. A. That is correct.

Q. And whatever remains is a vapor. The make tank, then—and is delivered off the top of the make tank and through a control meter? A. Yes, sir.

Q. And into the high stage accumulator. A. That is correct, except it does not go direct into there.

Q. Where does it go, first?

A. The vapors from the make tank and the vapors from the primary vent tank are picked up by a compressor that we refer to as a recompressor in the plant. It is compressed up to approximately 200 to 250 pounds; it passes through coiling coils located in this same cooling tower where those vapors are cooled in the same manner as the ones from the make tank. Then the condensate, or the uncondensed vapors are returned from that point to the high stage accumulator.

Q. The liquids from the bottom of the make tank are also dumped into the high stage accumulator? A. The liquids from the make tank are pumped into the high stage accumulator.

Q. Along with the liquids and vapor from the cooling towers that have been put through the recompressor? A. That is correct.

Q. Then in the high stage accumulator you have liquid accumulation in the bottom of the tank and still remaining vapors at the top of the tank; is that right? A. That is correct.

Q. Those vapors on the top of the high stage accumulator, what disposition is made of them? A. They are returned to the plant absorber inlet.

Q. And commingled with the raw gas coming in from the field and pass through the absorber? A. That is correct.

[1172]

Q. What disposition is then made of the liquids accumulated in the high stage accumulator. A. They are pumped through the fractionator.

Q. There is no piece of equipment shown on this map as a fractionator, but it is a vessel, is it not, with bubble trays in it? A. That is correct.

Q. And operates on the same principles as the still? A. That is about right, yes, sir.

[1173]

Q. The liquids taken to the fractionator, what occurs in the fractionator, as that process is carried on? A. If there is any ethane or liquid in the high stage accumulator that we do not desire to keep in the liquid gasoline that we transport to the Borger fractionator, it is separated from the main gas stream in the fractionator.

Q. Does the gasoline come in at the top or the bottom of the fractionator as the liquids come from the high stage accumulator? A. It comes in at some point up the column. I could not tell you exactly where.

Q. Is it contacted in these bubble trays with some substance or other? A. Pardon me?

Q. Does it come in contact with anything in the fractionator? A. Yes. We have some of the same material that we are using in the fractionator that is condensed overhead into a liquid and pumped back to the top of the column and serves as a reflux for the column. That is the only contact of any liquid that is made in the fractionator.

Q. Is heat applied in the fractionator? A. It is, in a reboiler section of the fractionator, which may be in the column or off as a separate unit.

Q. The fractionator at the Sherman plant, what hydrocarbons are taken off as a vapor from the liquids which are brought over from the high stage accumulator? A. Ethane is the only one that we do not desire to keep in the liquid gasoline. Possibly at times there is some propane being fractionated off also. That would depend, I

[1174]

would say, if we fractioned off propane that would probably take place in the absorption, in the absorbers, for reducing the Btu of the gas below the minimum permitted under the Michigan-Wisconsin contract. That would be the only reason I would know for fractionating propane off of the gasoline for replacement into the gas stream or residue gas stream.

Q. Is the Btu content of the overage from the fractionator greater than that of the residue over the top of the absorbers, assuming that you just fractionated through ethane? A. No, it would be lower, I would say, in that case.

Q. The Btu of the ethane is lower than the Btu of the methane over the absorber? A. No. If we assume that methane was the only thing that was left in the absorber it would be higher.

Q. Do you know which one of them is the higher? A. No, sir, I do not.

Q. There is a line on this exhibit with an arrow pointing to the residue gas line just above the absorbers at Sherman plant which says, "Four-inch Sherman Plant Fractionator Overhead." Do you find that line?

A. Yes, sir.

Q. There is also a meter shown there? A. That is right.

Q. Does that line represent the line from the overhead fractionators which deliver into the residue gas the fractionator overheads at Sherman plant? A. It does.

Q. And is that fractionator overhead commingled with the residue overhead from the absorbers? A. It is.

Q. Prior to delivery of residue gas which is delivered to Michigan-Wisconsin Pipe Line Company? A. That is correct.

Q. Do you know whether or not any Btu analysis has been made of the Btu content of the fractionator overheads at Sherman plant? A. No, sir, I do not.

Q. I am going to ask you to ascertain, if you can, whether that has been done, and if so what Btu is shown in regard to that fractionator overhead. You can do that during the noon hour.

Mr. Paris, your description of the flow of rich oil and the equipment used in obtaining the liquid hydrocarbons which are liquefied and saved as such at the plant, and the flow of the various vapors down through the high stage accumulator,

[1176]

is that equipment generally denominated the distallation equipment of a gasoline plant? A. That is correct.

Q. The fractionator is not ordinarily included within the concept of gas equipment, or is it? A. Well, it could or could not be. I never thought of it in that respect. It seems to me it treats with the gasoline after it has been distilled from the oil, therefore, I would say that it probably would rightfully not be a part of the distillation.

Q. The flow chart of the Hansford plant reflects a similar accumulation and disposition of a plant vapor recovery, does it not? A. That is correct.

Q. And the flow of rich oil and the processes by which the absorbed vapors are stripped from rich oil and liquefied and the vapors in the distillation system is the same in the Hansford plant as it is in the Sherman plant? A. That is right.

Q. And the fractionator overheads at the Hansford plant are also delivered into the residue gas stream from the absorbers to make up the gas that is delivered to Panhandle Eastern, is that right? A. That is correct.

Q. Will you turn now to Exhibit 45-B?

[1177]

A. Yes, sir.

Q. To the right of the exhibit is shown the 24-inch line labelled "Field Gas Plant." Do you find that point? A. Yes.

Q. You have already gone through the process of taking that gas through the absorbers and through the gas treater. Just to the left of the gas treater there is a take-off from that line which is marked "Six-Inch treated gas to reabsorber." Do you find that? A. Yes.

Q. That gas is delivered into the reabsorber, is it not? A. That is correct.

Q. With certain of the plant vapors? A. That is correct.

Q. In other words, some of that raw gas is commingled at that point with the vapors from the first flash tank and high stage accumulator and the vapors from the second vent tank, is that right? A. That is correct.

Q. Are those vapors passed through a recompressor before they are commingled with the raw gas from the six-inch line and introduced into the reabsorber? A. They are not.

Q. What is the difference between this reabsorber and the absorbers?

[1178]

A. There is not any difference, except that it is a smaller unit and operates at lower pressure than do the main plant absorbers.

Q. But mechanically it operates in the same manner as any other absorber? A. That is correct.

Q. The residue gas from the reabsorber, is any of it delivered to Panhandle Eastern? A. No, sir, it is not.

Q. The balance of the raw gas, after it passes through the gas treater, is then metered and then delivered to Panhandle Eastern. Do you know at what point that delivery is made? A. It is made to the suction header at the Panhandle Eastern compressor station.

Q. Do you know whether Phillips owns the line to their suction header? A. They do not.

Q. Do you know at what point Phillips' ownership of the line that is marked "20-inch treated gas to Panhandle Eastern" is owned by Phillips? A. Just that portion that is inside the Phillips plant.

Q. You mean inside the fence? A. Inside the Phillips plant fence, yes, sir.

Q. Then the Phillips gas, I believe you stated, is mingled with the Panhandle Eastern raw gas and put through the

[1179]

Panhandle Eastern compressors and delivered back to Phillips. Do you know the point at which Phillips receives that gas from Panhandle Eastern? A. At the fence line, the south fence line of the Phillips plant.

Q. The south fence line of the Sneed plant? A. Yes, sir.

Q. Then that gas moves on this diagram north and makes a left angle turn to the west. At that point where it makes that turn, is anything added to that gas? A. There is.

Q. And what is added to the gas at that point? A. That is gas from the first vent tank, or vapors from the first vent tank, and the second flash tank.

Q. Those are the vapors that come off the rich gas in the course of the distillation process which you previously described as first vent tank and second flash tank. A. That is correct.

Q. I believe in the distillation system that you were describing at the Sherman plant, I do not believe there was a second flash tank, was there? A. No, there was not.

Q. How does the second flash tank enter into the distillation system at Sneed? A. The Sneed plant operates the absorbers at 500 pounds

pressure and bringing from the 500 pounds down to the presure to carry on the heat exchanges in the distillation system, and instead of doing all the flashing at one point we do it in two different stages. It is a two-stage flashing, is what it amounts to.

Q. The second flash tank vapors are richer than those in the first flash tank? A. That is correct, yes, sir.

Q. How about the first vent tank vapors, are they still richer? A. It is richer.

Q. Those vapors are then introduced into the raw gas stream upstream from the absorbers, as shown on this flow sheet? Do you find that point. A. Yes, sir, that is correct.

Q. Does all that gas come into a common header before the bank of six absorbers? A. It does.

Q. And is commingled at that point? A. It is.

Q. And after being run through the absorbers the remainder of the gas which is not absorbed into the absorption oil passes off the top of the absorbers; is that right? A. That is correct.

Q. Through a bank of six meters.

A. That is correct.

Q. Then the flow chart shows there is another stream introduced into the residue gas from the absorbers which is labeled "Plant fractionator overhead." Is that an overhead from the fractionator which is similar to the one you described at the Sherman plant? A. Yes, sir.

Q. Do you know whether those fratcionator overheads contain anything except ethane? A. I would say in this case they do not.

Q. You would say they do not? A. That is right.

Q. From time to time do you know whether or not they also contain propane? A. Well, it would be possible, but I am not certain.

Q. Is there also collected with the residue gas another stream which is marked on the exhibit as being vaporized liquids. A. That is correct.

Q. What are those vaporized liquids which are introduced into and commingled with the residue from the top of the absorbers? A. That is gasoline after it has passed through the plant fractionator, a portion of which — I beg your pardon, it is not gasoline, it is fractionator reflux. It is not a finished gasoline. It is pumped through a vaporizer and added

[1182]

back to the residue stream from the absorbers.

Q. Do you know what the hydrocarbon composition is of the fractionator reflux which is vaporized and introduced into the residue stream? A. Not for certain. It is principally propane and possibly some butane.

[1183]

Q. Do you know whether or not the Btu's of that vaporized liquid is greater than the Btu's of the residue that comes off the top of the absorber? A. It is greater.

Q. Does it serve to decrease the Btu content of the total mixture of residue gas which is redelivered to Panhandle Eastern? A. It does.

Q. At what point does the redelivery of the commingled residue vapors and vaporized liquids to Panhandle Eastern take place. A. In the absorber outlet header.

Q. Is that the point where Phillips redelivers the residue to Panhandle Eastern? Did you follow my question? A. I probably missed the question, sir.

Q. In other words, I asked you the point at which redelivery is made to Panhandle Eastern of this commingled residue from the absorbers, fractionator overhead and vaporized liquids. A. At the Sneed plant fence, located south of the Sneed plant.

* * *

[1191]

Q. If you will turn to Exhibit 45A, I believe you stated that after the sour gas had passed through the gas treater and the sweet gas through the sweet absorber, that all volumes of gas processed in the plant came to a common header, where it was commingled before being processed through the absorbers? A. That is correct.

Q. Is the hydrocarbon composition of the raw gas in that header which is the commingled gas, processed through the plant different from the hydrocarbon composition of the residue gas as it is delivered to Michigan-Wisconsin Pipe Line Company at the meters shown near the northeast or upper left-hand corner of the chart, Exhibit 45? A. The question is is the hydrocarbon content different?

Q. The hydrocarbon content of the raw gas different from the residue gas that is delivered to Michigan-Wisconsin. A. It is.

Q. Now, Mr. Paris, is the hydrocarbon composition of the residue gas as it comes from the top of the absorbers shown on Exhibit 45A and before the overhead vapors from the fractionator are introduced into that residue from the absorbers different from the mixture of the two which is delivered to Michigan-Wisconsin? A. It is.

[1192]

Q. At the Hansford plant, is the hydrocarbon composition of the raw gas in the headers before it is taken in the absorber different from that of the ultimate residue gas which is delivered to Panhandle Eastern at the meters near the east side of the plant? A. It is.

Q. Is the hydrocarbon composition of the residue gas from the top of the absorbers prior to the introduction into that stream of the overhead vapors from the fractionator at Hansford plant different from the mixture of the two which is delivered to Panhandle Eastern? A. It is.

Q. At the Hansford plant, Mr. Paris, does all of the raw gas from the lines which, I believe you said, were lines A, B, C, D, E and F on Exhibit 13, does all of that gas come into a common header and become commingled before it is processed through the absorbers? A. It does.

Q. Turn to Exhibit 45C. I believe on direct examination this morning you stated that the line, 20-inch line, from the southwest Gray County, was taken directly into the absorbers. I ask you whether or not the gas from that line is not commingled with the gas coming through the 20-inch line from Wheeler County as marked on the exhibit and with all of the gas which comes into the plant through the vacuum

lines marked on the exhibit after the vacuum gas passes through the compressors before being processed in the absorbers? A. It does.

Q. Is the hydrocarbon composition of the commingled raw gas at the intake header of the absorber different from the hydrocarbon composition of the residue gas which is ultimately delivered to Independent Natural Gas Company? A. It is.

Q. Is the hydrocarbon composition of the residue gas off of the top of the absorbers at Gray plant prior to introduction into that stream of the plant vapor recovery of a different hydrocarbon composition from the residue gas which is ultimately delivered to Independent Natural Gas Company? A. It is.

Q. I believe you stated this morning that it was approximately a quarter of a mile from the meters at Sneed plant which meter the gas that Phillips sells to Panhandle Eastern to Panhandle Eastern's compressor station. Do you recall that? A. Yes, sir.

Q. How far is it from those same meters to the plant fence, at which point, I believe you testified, the gas was delivered to Panhandle Eastern's line?

[1194]

A. Oh, I'd estimate 150, 175, yards.

Q. I'm not sure whether you testified to this or not Mr. Paris. Who owns the meters on Exhibit 45D at the point near the bottom of the exhibit where it says "meters (4) El Paso Natural Gas Company"? A. Which exhibit?

Q. That is 45D. A. They are owned by El Paso.

Q. Those are the delivery meters to El Paso, are they not? A. That is correct.

Q. I believe you have stated that Phillips Petroleum Company does not sell any of the gasoline as made at the several plants represented by, well, I should say Dumas, Sneed, Gray, Sherman and Hansford plants, but takes the gasoline as made through a gasoline pipe line to the Borger fractionator where it is further fractionated and processed, is that correct? A. That is correct.

Q. Does Phillips Petroleum Company, however, purchase gasoline as made from other gasoline plant operators in the Panhandle Field? A. Yes, sir.

Q. Does that gasoline include, in some plants, butanes and propanes?

A. It does.

Q. Within the limits fixed by the Btu requirements of the gas sales contract, and the Btu content of the raw gas from the field, does Phillips Petroleum Company have complete freedom in determining the gasoline extraction and liquid hydrocarbon production at the several plants we have been discussing? A. We do.

Q. And within those limits, do the requirements of the pipe line companies, such as Michigan-Wisconsin Pipe Line Company, determine the gasoline and liquid hydrocarbons which will be manufactured at the plants? A. Within those limits, they do not.

Q. And, in fact, does your gasoline extraction vary from time to time in the plants such as the Sherman plant? A. Yes; it varies.

Q. By that I mean the degree of extraction. A. Yes, sir.

Q.Do you have any control over the volume of casing-head gas which is produced from the wells to which you are connected and from which you take casing-head gas? A. None whatever.

Q. Who determines that volume? A. The operator of the wells, the producer.

Q. Is it affected by the oil proration schedules?

A. Yes, it is.

Q. Does the casing-head gas produced with the oil and cannot be produced without the oil, or the the oil cannot be produced without it, I guess I should say? A. I don't know of any cases where casing-head gas or oil is produced without producing casing-head gas with it. There are instances where casing-head gas is produced when oil is not produced, but generally always in instances that I know of in a lesser volume than would be the case than if the oil were being produced.

PRESIDING EXAMINER: Casinghead gas is produced exclusively from oil wells, is it not?

THE WITNESS: That is right.

PRESIDING EXAMINER: It is not produced from gas wells.

THE WITNESS: That is correct.

BY MR. SPARKS:

Q. What I meant to say is occasionally gas is produced along with the oil. A. That is right. I would say that as a rule, but when they are not producing oil there is some gas produced from casings regardless of whether oil is being produced or not, in some instances. In some places the oil fills up the well bore and sets gas off, but in other cases it does not fill up very much and some gas has to be produced, even though the well is not pumping or flowing, whatever it might be. If it is a pumping well, that would happen; if it is a flowing well, of course, it would not, unless it were flowing—

Q. I believe you stated at the present time aproximately 60 per cent of the residue gas from the Gray plant was delivered to Independent Natural Gas Company. Does that percentage and volume of gas delivered to Independent vary? A. It does.

Q. Is it more or less in the summertime than at present? A. The volume is less in the summer than it is at the present and through the winter months.

[1198]

Q. And is the percentage of the total less? A. It is.

Q. In the Sherman gathering system, for example, is there a variation in the pressure, the reservoir pressure, of the various wells? A. There is.

Q. Is there a variation in the pressure at the well in some cases and the working pressure in the line taking gas from the well? A. There is.

Q. How is that handled to maintain that pressure variation? A. I would say the largest part — that is what I intended to say, but I am not sure about that — the wells are prorated, of course, and to prevent the wells from over-producing they are pinched in and not allowed to produce wide open in all instances, and the pressure in the gathering system must be maintained sufficiently low that the lowest pressure wells can produce into the system. That is controlled by pinching back on all of the wells.

Q. And I assume that varies from time to time when various wells are put in and taken out, cut in or out of the gathering system? A. That is correct.

* * *

[1211]

MASON G. WALTERS

was recalled as a witness, after having been first duly sworn, was examined and testified further as follows:

Further Direct Examination by Mr. Purdue

* * *

[1213]

Q. Mr. Walters, did you prepare Exhibits 48 to 51, inclusive? A. I either prepared them or they were prepared under my supervision.

Q. As in the case of Exhibits 12 to 15, inclusive, did you first make drawings or sketches on a larger scale than these exhibits from maps and drawings of Phillips' facilities on a still larger scale which that company supplied? A. I did.

Q. Did you also put in on the drawings which you made certain line designations and sizes from vacuum and residue line maps supplied by Phillips Petroleum Company? A. Yes, sir, I did.

Q. Were the drawings which you made true and correct depictions on a smaller scale of the pipe line facilities shown on Phillips' maps? A. They are.

* * *

[1214]

Q. Then did you check Exhibits 48 to 51, inclusive, against transparencies of Phillips Petroleum Company furnished by that company? A. Yes, sir, I did.

Q. Do the Exhibits 48 to 51, inclusive, reflect all the pipe lines shown on those transparencies? A. Yes, sir.

Q. Were the transparencies represented to you by the Phillips Company in the instance of the Eunice plant—in the instance of these four fields, that is, the Eunice, the Fullerton, the Goldsmith and the Crane fields, to be their most current transparencies? A. That is correct.

* * *

[1215]

MR. PURDUE: Mr. Examiner, we offer Exhibits For Identification 48 to 51, inclusive, in evidence.

* * *

MR. SPARKS: In other words, on Exhibit 48, have you shown all of the lines which were shown on the tracing and maps furnished you?

THE WITNESS: Yes, sir.

MR. SPARKS: Is that likewise true with regard to Exhibit

[1216]

49, which relates to the pipe lines at the Fullerton plant?

THE WITNESS: I tried to show on this diagram all of the pipe lines that are shown on the transparency.

MR. SPARKS: Now, on Exhibit 50, I notice that you have one line coming down from the north that runs off of your blocked out line of the sketch, the border line, and there is a cross line goes across the line from the north, is that right?

THE WITNESS: Yes, sir.

MR. SPARKS: Are those the only two lines that were shown on your sketch in that area?

THE WITNESS: Those are the only two that were shown on the transparency, that is right.

MR. SPARKS: I mean on the transparency.

THE WITNESS: That is right.

MR. SPARKS: Very well.

PRESIDING EXAMINER: Is there any objection to Exhibits 48 to 51, inclusive?

(No response.)

PRESIDING EXAMINER: Those exhibits are received in evidence.

(THE DOCUMENTS ABOVE REFERRED TO WERE RECEIVED IN EVIDENCE AS EXHIBITS NOS. 48 to 51, respectively.)

* * *

[1217]

HOWARD MARKLEY

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Purdue

Q. Where do you live, Mr. Markley? A. Odessa, Texas.

Q. Sir? A. Odessa, Texas.

Q. What is your position with the Phillips Petroleum Company? A. I am superintendent of the western district of the natural gasoline department.

[1218]

Q. How long have you held that position? A. A little over seven years.

Q. How long have you been with the Phillips Petroleum Company? A. Almost 19 years.

Q. Almost 19. Will you, in a brief way, state the other positions you have held with the company before becoming superintendent of the western district of the natural gasoline department. A. I went to work as a laborer in 1932, and worked some as an operator, laboratory technician, and I was foreman of the gasoline terminal for a year, chief operator of the gasoline plant for a year.

Q. What plant. A. Wewoka plant in Oklahoma. I was in the engineering section in the Panhandle district for approximately three years, in the process engineering section in the Bartlesville office after that approximately a year, and was district engineer in the Oklahoma district for about four and a half years, and then went to Odessa as district superintendent.

[1219]

Q. As superintendent of the Western District — is it District or Division? A. District.

Q. As superintendent of the Western District of the Natural Gasoline Department, you have supervision over the operations of Phillips Petroleum Company in the Permian Basin. A. Only in the Natural Gasoline Department.

Q. Is the Permian Basin a large area in southwestern Texas and southeastern New Mexico? A. Yes, sir.

Q. Does your supervisory authority cover both the pipe line facilities in the fields and the operation of the gasoline plants? A. It covers the natural gas gathering systems and the gasoline plants.

Q. Will you specify the names of these gasoline plants and their locations? A. All under my supervision you mean?

Q. In the Permian Basin area. A. We have eight plants in the Permian Basin: The Crane plant near Crane, Texas; the Judkins plant near Penwell, Texas; the Goldsmith plant near Goldsmith, Texas; the Fullerton plant near Fullerton, Texas; the Seminole plant near Seminole, Texas; the Hobbs plant adjacent to Hobbs, New Mexico; the Lea plant adjacent to Buckeye, New Mexico, and the Eunice plant

[1220]

adjacent to Oil Center, New Mexico.

Q. Except for the Judkins plant, does the Phillips Company sell residue gas from these plants to El Paso Natural Gas Company? A. Yes, sir.

* * *

[1225]

Q. Referring to Exhibit 48, which is the diagram of the pipe line facilities of Phillips in the Eunice field, are the separators located at the ends of the small-sized lines shown on that map? A. Not necessarily exactly on the ends of those lines. In some instances they might be at some distance from the ends of those lines.

Q. You would say that those lines terminate at meters; is that correct? A. If this map is complete those lines would terminate at our meter station.

Q. At your meter stations. And then there would be lines extending thence to the separators? A. Ordinarily.

Q. I take it your answer would be the same in the case of Exhibits 49, 50 and 51. Would you refer to them, please, which show the pipe line facilities in the Fullerton field, the Goldsmith field, and the Crane field, respectively. A. If these maps are complete and accurate maps of our gathering system, why, the same answer would apply.

* * *

[1227]

Q. Does the gas flow to the plants under separator pressure, or how? A. In these four fields all the gas flows under separator pressure to the plants.

Q. So the pressure decreases somewhat from what it is at the separators before it enters the plants?

[1228]

A. Yes, sir.

Q. At the Crane, Goldsmith, Fullerton and Eunice plants, does Phillips compress the gas and run it through absorbers? A. Yes. We have compressors at each plant that handle wet gas and run the wet gas through absorbers at each plant.

Q. After the extraction of the gasoline and other liquid products from the gas processed in these four plants, does Phillips sell most of the residue gas to the El Paso Natural Gas Company? A. Most of it is sold to the El Paso Natural Gas Company.

* * *

[1229]

MR. PURDUE: Mr. Sparks, have you just produced some maps of the facilities showing the flow in the Eunice, Crane, Fullerton and Goldsmith plants?

1229

MR. SPARKS: I have just completed them this afternoon, yes.

MR. PURDUE: And as I understand you they are somewhat more complete than Exhibits 45-E and 45-F and 45-G and 45-H of a similar nature which staff entered into evidence on Friday?

MR. SPARKS: That is correct. They show more of the detail of the gas flow than the other exhibits.

MR. PURDUE: I have not had a chance to examine these exhibits to which I have referred which have just been handed me. However, I have no objection to your introducing them in evidence as your exhibits.

MR. SPARKS: I would be glad to do so so that you may use them if you so desire in questioning the witness.

[1230]

If the Examiner please, I suggest that we have these flow sheets marked with the same corresponding exhibit numbers that were on the ones that the staff introduced. In other words, the Eunice plant would be 45-E-1 and appear in that position in the record, and then they would be together at that point.

MR. PURDUE: That is satisfactory with us, Mr. Examiner.

* * *

[1232]

PRESIDING EXAMINER: Do you wish to offer these exhibits?

MR. SPARKS: Oh, yes, sir.

PRESIDING EXAMINER: Is there any objection to Exhibits 45-E-1, 45-F-1, 45-G-1 and 45-H-1?

* * *

PRESIDING EXAMINER: Exhibits No. 45-E-1, F-1, G-1 and H-1 are received in evidence.

* * *

[1269]

Q. Now, Mr. Markley, will you go ahead and by reference to Exhibit 45-G-1, describe the flow of the gas through the Goldsmith plant? A. The raw gas from the field comes in from the gathering system lines, these lines that we have been talking about, and passes through several inlet scrubbers. Five are shown on the sketch. Well, I see a total of six shown on the sketch.

MR. McALLISTER: How many are in the plant?

THE WITNESS: I'm sure that six is the correct number in the plant.

From those inlet scrubbers the gas goes into a compressor intake header. From the compressor intake header, the gas goes to the compressors, and from the compressors it goes to the compressor discharge header, and from the dicharge header we have two streams, one going to the three 50-pound absorbers and one going to the El Paso Natural Gas Company.

BY MR. PURDUE:

Q. Are the properties of the El Paso Natural Gas Company shown on the lower right-hand portion of the chart? A. Their plant is designated on the chart.

[1270]

Q. And is the gas metered before it goes to the facilities of the El Paso Company? A. It is.

Q. At the meter on the green line at the left-hand portion of the series of lines running in a northerly-southerly direction on the lower right-hand portion of the diagram? A. No, the stream of gas I have just described—

Q. I see, it is the red line. A. —goes through the left-hand red line on the sketch. It goes through three meter runs. From our 50-pound absorbers, the residue gas, which, of course, is of somewhat lower volume and character than the inlet, goes to a number of different places. One line shows residue return to the field. Another line shown delivers gas to the Sid Richardson Carbon Black Company through meters. Another line delivers fuel for the plant furnaces. Another line delivers fuel for plant boilers.

We come to another residue line that delivers gas to the injection compressors.

MR. McALLISTER: What do you mean by injection compressors?

THE WITNESS: The crude oil producers, some of the crude oil producers, in the Goldsmith field are reinjecting residue gas. We are supplying the compression service for that reinjection gas.

MR. McALLISTER: You mean by that lift gas or is it repressuring gas or pressure maintenance gas?

THE WITNESS: Well, I'm not a production engineer, and I don't know what their exact definition for it might be. It is commonly called by the names you gave it, repressuring gas and pressure maintenance. We happen to be calling it reinjection gas at Goldsmith.

MR. McALLISTER: Well, it comes within that category. That goes back to them for use in maintaining pressure in the field to aid in the production of oil?

THE WITNESS: I understand that they return it to the reservoir from which the gas came, from which the gas and oil come.

MR. McALLISTER: What was that?

THE WITNESS: I understand they return the gas to the San Andres formation from which we obtain wet gas.

MR. McALLISTER: I mean there is an equal volume goes back or something of that order. It couldn't be identical to gas.

THE WITNESS: I don't know what the ratio of the volume of the reinjection to the volume of the original produced gas may be. It is appreciably less.

MR. McALLISTER: It is less than that produced from the field?

THE WITNESS: Yes, sir.

[1272]

MR. McALLISTER: In volume.

THE WITNESS: Yes, sir.

MR. McALLISTER: But you have no way of maintaining the identity of the gas through this plant, so it is a certain volume that goes back?

THE WITNESS: That is correct.

BY MR. PURDUE:

Q. Mr. Markley, you testified that the raw gas passes through three meters and enters the facilities of the El

Paso Natural Gas Company. Does the El Paso Natural Gas Company compress the gas there? A. Yes, sir. They compress the gas to 600 pounds or less and return it through the other red line which is labeled 600 pound wet gas from El Paso.

Q. Does the gas flow through two meters just after it leaves the property of the El Paso Company? A. Yes, sir.

Q. Proceed, please. A. Do you want me to continue with that stream?

Q. Yes, continue with that stream. A. The 600-pound gas goes through the 600-pound absorber and there is—

Q. (Interrupting.) How many absorbers are there there? A. One.

Q. Just one. A. There is a marked change in volume and character of the gas in the 600-pound absorber. The residue from the 600-pound absorber is returned to the El Paso Natural Gas Company. It is cooled somewhat by a cooling coil which is not shown on this sketch. It is returned through the green line through the two meters shown in the lower right-hand corner of the sketch. To pick up the residue from our 50-pound absorbers again, I led some of it to the injection compressors. Some of it goes to our plant gas treater where hydrogen sulphide is removed and the treated gas is used for camp fuel and for engine fuel in our plant, and minor streams are shown there going to camps to the Ector Water Company and to the Ector County Utility Company.

The reinjection gas from the injection compressors is passed through a dehydrator and the major portion of it then is delivered to producers through the lines at the top of the sketch, one line labeled 1,100-pound gas to Devonian and others and the other labeled 1,100-pound gas to Phillips Petroleum Company. The rest of that dehydrated 1,100-pound gas is further compressed in the high stage injection compressor and leaves through a line labeled 1,500-pound injection gas to Phillips Petroleum Company.

We have a number of vapor streams in the plant. The vapors from the rich oil flash tank and the vapors from the

[1274]

condenstate flash tank and the vapors from the high stage accumulator and ordinarily the vapors from the fractionator all go to the reabsorber. The reabsorber residue is shown entering the residue from the 50-pound absorbers.

A line is shown here from a point between the make tank and the high stage accumulator leading to the compressor intake header. There are periods when vapors flow through that line to that intake header. It isn't a continuing stream, and they do not flow at fixed intervals.

MR. McALLISTER: Why isn't there a continuous stream?

THE WITNESS: The line is there to take care of vapors which during regular operations are handled by the plant removal compressors. We have four recompressors and when one or more of those may be down, we can't handle all of the vapor stream that flows from the make tank to the high stage accumulator, so at times when we can't handle it through the recompressors, we divert that stream to the compressor intake header.

* * *

[1301]

Q. Yes, all right. Mr. Markley, will you describe the flow of gas through the Crane plant and into the facilities of the El Paso Company? A. Yes, sir. The raw gas comes from the gathering lines through the several large diameter pipes we have been talking about through three inlet scrubbers shown on the sketch. The figure two is designated there after one scrubber in one instance, and in the other instance the figure one is designated after the scrubber. It comes from those two inlet scrubbers to the engine room, where it enters the gas compressors.

Gas is boosted there and leaves the engine room through another red line labeled 24-inch and goes through two meters to two absorbers. After passing through the absorbers, the residue gas goes to various points. We show towards the top of the sketch the three meters, metering three streams of residue gas. One is residue return to leases, the other is residue to the flare, and the other is residue for gas lift.

[1302]

Going back to the top absorber and taking another residue line, we find that it is over here past the middle of the sketch a way where it is labeled 20-inch, and at that point we have a brown line, which represents plant vapors, coming into the 20-inch. From that point the residue, composite residue or the combined residue, goes to the El Paso Natural Gas Company's station through two meters, which are shown outside the plant fence.

Other residue gas goes to the boilers for boiler fuel. Some then goes to the gas treater, where hydrogen sulphide is removed and that sweetened gas is used for various purposes. Some is delivered to the Humble Pipe Line Company's crude oil pumping station. Some is delivered to the Southern Union Gas Company, some to Texas-New Mexico crude oil pipe line pumping station and several streams are delivered to camps.

Treated gas is also used for fuel for the plant engines. We also have a connection that will permit us to use treated gas for fuel for the boilers.

We have some vapor streams over here shown in brown lines. Vapors from the primary vent tank are introduced to the raw gas before it enters the absorbers. The vapors from the secondary vent tank, the make tank and the fractionator feed tank are, after a combination there, introduced to the reabsorber and the fractionator overhead is also

[1303]

introduced to the reabsorber. The residue from the reabsorber is shown so it can go either of two ways, either to the El Paso Natural Gas Company, as I have described, or it can go to the boiler fuel line.

I believe that traces out all the lines shown on this sketch, sir.

* * *

[1311]

Q. Mr. Markley, in the instance of all these areas in the Permian Basin about which you have testified, namely, the Eunice, Fullerton, Goldsmith and Crane areas, is there a continuous uninterrupted flow of the gas from the well heads through the flow line separators, through the pipe line facilities of Phillips Petroleum Company leading to the plants, through the respective plants, and into the meters and pipe lines of El Paso Natural Gas Company? A. That is a very long question and I think it should be broken down. I would have to answer it "no".

Q. In what respect is there not such a continuous uninterrupted flow? A. The flow of gas from the leases, the casinghead gas which we purchase is frequently interrupted.

Q. Where, at what point. A. Well, it is interrupted at the leases coming from the separators.

Q. Is the flow interrupted after it leaves the separators? A. Under normal operations it would not be.

Q. What would be the operations under which it is never interrupted? A. After it leaves the separators, you mean?

Q. Yes. A. Of course, in the case of line breaks or changes it would require our cutting the line and taking them out of

[1312]

service for repairs, say, or additions.

Q. Except for a particular line or facility being temporarily shut down, as for repairs, or for similar reasons which you have stated, is there a continuous uninterrupted flow of the gas from the separators through the pipe line facilities of Phillips leading to the plants, through the respective plants, and into the meters and pipe lines of El Paso Natural Gas Company? A. Ordinarily, except for those things that I mentioned, the flow would be continuous, and it would certainly not be constant. I do not know whether you mean uninterrupted by partial interruption or complete interruption, but there are quite sharp fluctuations in the flows of gas in those lines and into the plants.

Q. The flow goes on seven days a week, 24 hours a day, does it not? A. Not all the flow from the separators, and the flows in the lines would depend on whether or not all the separators to which those lines are connected are out of service or not. There may be times when appreciable sections of the field, if you include oil and gas production, might be stopped, and it might stop the flow through at least a portion of our gathering system.

Q. But except for the times and periods when the oil production at the wells leading to a particular separator

is stopped the flow is continuous and uninterrupted from those separators on? A. Except for those times when we have emergency repairs or reconstruction, I think that is true.

BY MR. McALLISTER:

Q. Whatever gas is flowing to El Paso represents an uninterrupted continuous flow from whatever wells it is produced in association with oil? A. Yes, sir.

BY MR. PURDUE:

Q. And there is a continuous and uninterrupted flow of gas to the El Paso Company, is there not? A. No. There are times when we have to shut our plant down and do not deliver gas. When we have an emergency shutdown naturally there is interruption of flow. I could not say it was continuous.

Q. But except for those emergency periods the flow is continuous and uninterrupted to El Paso. A. *Well, they have down time, too, of course. Except when the time when they are down or we are down or the volume of gas produced in the field doesn't leave sufficient residue to sell to them, why, it would be continuous. There are times in extremely cold weather at some points when we do not have enough gas coming through the plant to sell El Paso any.

Q. Those times are infrequent, are they not?

[1314]

A. Well, yes, I would say they are. They might occur — that particular instance might occur once or twice a year, usually when El Paso needs the gas the worst.

Q. Mr. Markley, I wish you would clear me up on the matter of the flow of gas from the wells to the separators at such time as there is production of oil at the particular wells leading to a separator as the flow of gas continues uninterrupted from the wells to and through the separators. A. Not always, sir. There are times when the oil and gas producer runs what he calls a test, various tests, and they set the test separator and will produce the oil and gas through that test separator and cut out the separator from which we take gas.

BY MR. McALLISTER:

Q. He flares the gas there? A. He releases it to the air.

Q. He vents it or flares it. One is leaving it flow to

---

*[Note correction at R. 1881.]

the air freely, and the other is to light a match to it and let it burn. It is one or the other. A. That is right.

PRESIDING EXAMINER: You are speaking now of individual wells, are you not?

THE WITNESS: Individual wells or individual leases, yes, sir.

PRESIDING EXAMINER: And while those particular wells may be

[1315]

shut down there is still a continuous flow of gas from other wells through the plant into the El Paso lines.

THE WITNESS: That would be ordinarily true, yes, sir.

* * *

[1341]

Q. The residue flare occurs when? A. It occurs when we have more gas coming into the plant than we can dispose of through our sales outlets. Well, that would be the determining factor, when we cannot get rid of all the residue, why, we will have to flare it if we cannot sell it.

Q. Do you flare it or just vent it? A. We flare it.

* * *

Q. What is the largest amount that you flared in any one day, as you recall it, since January 1, 1951? A. Well, since January 1951, there have been times when the El Paso Company was down and we flared all of our residue except that used for lease use and our own fuel needs.

* * *

[1344]

Q. I am not talking about the average. What I am trying to get at: Would there be in some days, relatively every month throughout the year, when there would be substantial volumes flared? A. Some one day, say, during every month?

Q. Yes. A. That is altogether probable, because the El Paso Natural has frequent shutdowns of all or part of their equipment, and when they are down we have to flare residues.

Q. Would that same condition apply to the other plants, Eunice, Crane and Goldsmith?

[1345]

A. Yes, sir.

* * *

[1372]

Examination by Mr. Torkelson

* * *

[1379]

Q. Again, you said that there were about 730 wells in the Crane area? A. That is right.

Q. Some of these wells are owned by people other than Phillips? A. Practically all of them are. Phillips has, oh, very few. I think only two leases, and perhaps not as many as eight wells.

Q. Could you give me just a general proportion that come from wells owned by Phillips and that that comes from wells owned by other people? A. Well, I doubt if over one or one and a half per cent of the gas produced in the McElroy field and coming to Crane plant is produced by Phillips. I don't know, it is a very small amount.

Q. And the balance comes from wells owned by someone else? A. Yes, sir.

* * *

[1380]

Cross Examination by Mr. Sparks

Q. Mr. Markley, let us go back to the wells.

Except for wells which have a casinghead, does the gas come up through the tubing in solution with the oil? A. Yes, sir.

Q. On those wells which have casingheads on them the so-called casinghead gas comes between the tubing and the casing? A. Yes, sir.

Q. Then there is a connection at the top of the well, whether it is a well with or without casinghead, is that right? A. Yes.

Q. If it is a well with a casinghead is the casinghead gas introduced into the same line with the oil and the gas which is in solution in the oil? A. It often is that way; if you bring the connection off the casinghead to the top of the well, why, they will pipe it back into the flow line between the well and the separator. By the flow line I mean the line that carries the oil and the gas from the well.

Q. Those flow lines are connected to the wells and they run from there to the separator? A. Yes, sir.

[1381]

Q. And they carry both the oil and the gas? A. Yes, sir.

Q. Are the separators located on the lease on which is located the wells from which the oil is produced? A. They are always so located in that area.

Q. Is there ever more than one separator on a single lease? A. Quite frequently.

Q. Is there often more than one well connected to a single separator? A. Yes, sir.

Q. If the lease has wells on it which produce from more than one producing formation is there a separate separator for each producing formation? A. There is.

Q. And does that situation exist in numerous instances at, for instance, the Goldsmith area? A. Yes, it does.

Q. May there be also on the same lease more than one separator, even though the wells on the lease are producing from only a single producing formation? A. Yes. That frequently happens and frequently exists.

Q. Would you describe what a separator is and the point on the separator where the flow line ordinarily connects?

MR. McALLISTER: That is f-l-o-w, flow line?

[1382]

MR. SPARKS: Yes. That is the line that carries the oil and the gas from the wells to the separator.

THE WITNESS: The purpose of the separator is to effect a separation of the oil and gas. The separator ordinarily is a vertical cylindrical vessel and you have, perhaps, an arrangement of baffles or pipes which are designed to help the gas and the oil separate and to force a reasonable separation.

BY MR. SPARKS:

Q. And also any water that may come in there? A. And any other liquids, water that may be mixed with the oil, too.

The flow line bringing the oil and gas is ordinarily connected into a verticle separator at the point in the middle or somewhat above the middle of one side of the vessel.

Q. In the areas which the Goldsmith, Crane, Eunice and Fullerton plants are located, does the lease operator own and operate the flow lines? A. Yes, sir.

Q. Does he own and operate the separators? A. Yes, sir.

Q. Is there a connection on top of the separator for a line which takes off the gas after it has been separated from the oil? A. Yes. At the top of the separator the gas as separated

[1383]

within the separator comes off. The oil is removed from the separator in a connection at the bottom and the water, if any, is removed from the bottom connection, too, of course.

Q. Prior to the time when Phillips connects for the purpose of taking casinghead gas — and I am speaking of all this gas that is produced with oil as casinghead gas because it is legally so defined in Texas, although it may come through tubing in solution with the oil as distinguished from that coming between the tubing and casing as casinghead. So when I speak of casinghead gas I mean any gas that is produced from an oil sand and is produced with oil. I understand that.

MR. McALLISTER: You mean in solution with the oil?

MR. SPARKS: If it is produced from the oil sand and the same producing horizon as the oil and is produced with the oil, that is casinghead gas, yes.

MR. McALLISTER: The same solution, there may be some free, but it is the production of oil that comes out through the same stream, the same well. Is that right?

MR. SPARKS: That is right, although casinghead gas literally comes between the tubing and the casing and is not in solution with the oil at least at that point.

MR. McALLISTER: At that point it is not. I was just trying to see if we could get some understanding here that it is not the type of gas that is produced from an oil sand but is relatively produced from a dome and is an entirely

[1384]

different thing.

MR. SPARKS: I am not speaking of that, no.

BY MR. SPARKS:

Q. Prior to the time Phillips makes its connection to take casinghead gas, is it customary for the producer to lay his flow lines and set his separator tank, Mr. Markley? A. Yes, sir.

Q. Does he also build a vent line from that tank? A. That is the regular practice.

Q. Does that vent line take off from the top of the tank? What purpose does it serve? A. Well, it is to dispose of the gas, get it out and away from the separator to a relatively safe point. That is done by bringing a line from the top connection of a separator out and it comes down to the ground and may go into the ground, and it may be left on top of the ground. Then it would extend out a way from the separator a matter of, oh, 20 or 100 yards, depending upon the whim, perhaps, of the producer. There he will erect a riser on the line and support it with guy wires, ordinarily. Through that line and that riser the gas will be vented. He will have in the horizontal portion of that line on the ground, usually, a valve which will serve to hold a constant pressure on the separator and the gas is relieved through that valve.

[1385]

Q. Where does Phillips ordinarily connect with its line in order to take gas from the producers; in the areas that are covered by the Exhibits 48, 49, 50 and 51? A. We will connect to that vent line that the producer has built. We connect at the point between the separator and the back-pressure regulator.

* * *

[1395]

PRESIDING EXAMINER: The answer will have to be confined to that which comes under his immediate supervision and observation; otherwise, I think, the witness could not be allowed to testify.

BY MR. SPARKS:

Q. Will you so confine your answer, Mr. Markley. A. Natural gas as gathered into the plant in the western district, Goldsmith, Eunice, Fullerton and Crane contains hydrocarbons. I will list them in the order of their increasing density:

Methane, ethane, propane, isobutane, normal butane, isopentane, normal pentane, isoethanes, normal ethanes, isoheptanes, normal heptanes, iso-octanes and normal octanes, and isononanes and your normal nonanes, isodecanes and normal decanes, and a long chain of other hydrocarbons that occur in lesser increasing amounts.

Q. Does the natural gas also often contain other elements in the hydrocarbon series?

MR. McALLISTER: I object, Mr. Examiner. That is not within the ruling of the Examiner.

MR. SPARKS: I am speaking of the gas which comes under

his supervision.

MR. McALLISTER: Now, Mr. Examiner, does it often contain them? Where are we going? We are just going down the road where we are going to have to go back and spend hours correcting something that should have been in the record on the basis of actual analysis. All we are doing is prolonging and making more difficult a competent, realistic, understandable, actual record of what transpires. I renew my objection to this line of questioning so as not to encumber this record.

PRESIDING EXAMINER: The objection is overruled.

THE WITNESS: The natural gas in the four plants in question contains in addition to the hydrocarbons I have listed nitrogen, carbon dioxide and hydrogen sulphide and water vapor.

* * *

[1425]

Q. And all of those vapors are vapors from the distillation system which have been absorbed into the absorption oil as it passes through or over the raw gas in the absorber? A. That is true.

Q. What is the volume of the reabsorber residue which is introduced into the absorber residue that goes to El Paso?

* * *

A. That volume averages approximately 1,300,000 cubic feet per day.

BY MR. SPARKS:

Q. I believe you already stated in your direct examination the approximate volume of the composite residue gas which is delivered to El Paso, have you not? A. Yes, sir.

Q. Just repeat that.

[1426]

A. Approximately 80 million feet per day, currently.

Q. What is the Btu content of the reabsorber residue which is commingled with the absorber residue and the composite delivered to El Paso? A. The Btu content of the reabsorber residue is about 1,180 Btu per cubic foot. The Btu content of the composite residue delivered to El Paso is about 1,050 Btu per cubic foot.

Q. Is the hydrocarbon composition of the absorber residue different from the hydrocarbon composition of the reabsorber residue? A. Yes, sir.

Q. Is the hydrocarbon composition of the absorber residue and its Btu content different from that of the composite residue, including the reabsorber residue? A. It is.

Q. Would you now turn to Exhibit 45-F-1, the flow sheet covering the Fullerton plant. A. I have it.

Q. All of the raw gas processed in that plant is taken through the compressors, the raw gas compressors? A. It is.

Q. Does it come into a common header? A. Yes, sir.

Q. Before taken into the compressors?

A. Yes, sir.

Q. Is there a common header on the discharge side of the compressors? A. There is.

Q. Is the gas in the field commingled at each of those points. A. Yes, sir.

Q. I notice that there are five absorbers at the Fullerton plant. Is there a common residue discharge header on the discharge side of those absorbers? A. Yes, sir.

Q. So that the residue gas from the various absorbers is again commingled in that header? A. Yes, sir.

Q. I notice on this flow sheet that the various plant vapors which are finally accumulated in the high stage accumulator are delivered into the raw gas upstream from the absorbers, is that correct? A. Yes, sir.

* * *

Q. Mr. Markley, I ask you to look at Exhibit 48. A. I have it.

Q. By what name are the lines which collect gas from the producers and deliver to the Eunice plant known? A. Wet gas gathering lines.

Q. Is that designation applied to the large diameter sized lines up to the 24-inch, I believe, in this particular case, which extend from the plant in diminishing size as they go farther out into the field, as well as the smaller lines which connect to individual separators? A. It is.

Q. Are those lines commonly called gas gathering lines in your day-to-day operations in the field? A. They are.

Q. Is that the name which is commonly applied to lines collecting gas from wells or separators of producers and

[1464]

delivering it to gasoline plants? A. Yes, sir.

MR. McALLISTER: You are referring to the ones which you operate?

THE WITNESS: The ones I operate and the ones others operate.

BY MR. SPARKS:

Q. Are there also in the Permian Basin area in which you operate plants for Phillips Company gasoline plants of other companies? A. Yes, sir.

Q. Will you name some of them? A. Shell Oil Company, the Skelly Oil Company —

Q. Can you name a plant or two? A. The Shell Oil Company's TXL plant, Odessa Natural Gasoline Company's Odessa plant, Stanolind Oil and Gas Company's North Cowden plant, Stanolind Oil and Gas Company's Fullerton plant, the Shell Company's two plants in the Waltham field, and the Warren Petroleum Company's Monument plant, the Sid Richardson Gasoline Company's Keystone plant, the Cabot Company's plant near Kermit — I do not know what they call the plant — the Gulf Oil Company's Eunice plant. Those are the ones that are closest to our realm of operations. There are other plants in the Permian Basin that are further out from those we operate.

[1465]

Q. Are there lines at those plants which collect gas from the wells or separators of producers and deliver to the gasoline plants? A. I cannot speak to my knowledge of all the plants I mentioned, but the majority of them I know that they have separators and gas gathering lines and that they have gas gathering lines connected to producers' separators.

Q. As to the ones to which you have knowledge, are those lines spoken of by the operators as gas gathering lines? A. They are.

Q. I call your attention to Exhibit No. 49, which is a diagram of pipe line facilities at the Fullerton plant, and ask you by what name are the lines which Phillips operates and through which it collects gas from the separators of producers and delivers it to the Fullerton plant now? A. They are known as gas gathering lines.

Q. And does that terminology apply to all of those lines, including the larger diameter lines that lead into the plant? A. It is.

Q. I now direct your attention to Exhibit No. 50, which is a diagram of the pipe line facilities at the Goldsmith plant, and ask you by what name are the lines known as through which Phillips Petroleum Company collects gas from the separators of the producers and delivers it to the plant? A. They are known as gas gathering lines.

[1466]

Q. Does that terminology apply to all of such lines, including the larger diameter lines that lead into the plant? A. It does apply.

Q. I call your attention to Exhibit No. 51, which is a diagram of pipe line facilities at the Crane plant, and ask you if the lines through which Phillips Petroleum Company collects gas from the separators and producers and delivers it into the Crane plant are not also known as gas gathering line. A. They are so known.

Q. And that terminology is applied to all of said lines, including the larger diameter lines that lead into the plant? A. It is.

* * *

[1473]

Redirect Examination by Mr. McAllister

[1486]

Q. Do you make any Btu analysis of the gas, the raw gas, coming in over each of the lines leading into the plant? A. Of each of the lines coming into the plant?

Q. Yes. A. No. It would be very unusual for us to sample the individual gas gathering lines coming into the plant.

Q. With respect to the gas from individual leases, where do you make the tests to determine the Gpm content of the gas from various leases? A. We make those tests from the connection on the meter setting.

Q. The meter setting where? A. The meter setting on the line coming from the separator.

Q. How often do you make those tests? A. Every three months.

Q. Every three months. Well, then, the lines coming into the plant, you make no tests as to the Btu content or the Gpm content in the gas that comes in by individual lines and before those lines join at the common header, is that right? A. No, sir, we wouldn't test those individual lines.

[1487]

Q. Where do you maintain pressure gauges to determine the pressure of the gas in those individual lines that lead into the plant? A. Do you mean close to the plant?

Q. You told us all morning about the pressure of the gas in the lines that come into the plant. Now, where do you measure that? A. We measure it on the compressor intake header or headers, as the case may be.

Q. That is a composite pressure, that wouldn't give you the pressure on individual lines, would it? A. Well, on the 50-pound gas at this plant—

Q. No, but I'm not talking about that. That is something entirely different from the normal line, isn't it? That 50-pound line doesn't go into the common header that we have been talking about from the other lines. A. It doesn't go into the engine intake header, no.

Q. We are talking about the line that you say you measure the pressure at the common header, and I have asked you where do you determine the pressure on the individual lines as they come into the plant and before they join the common header. A. We have pressure connections out at the scrubbers on the gathering lines.

Q. On each individual line as it comes in?

[1488]

A. I couldn't assure you we have one on each line as it comes in, no, sir.

Q. Well, each line operates as a separate entity, does it not? A. We don't consider them—we bring them all together. They are all part of the system.

* * *

[1541]

PRESIDING EXAMINER: Please come to order.

I have received an order of the Federal Power Commission dated April 16, 1951, and issued April 17, 1951, granting the motion of Phillips Petroleum Company to limit the issues in this proceeding, in this hearing.

The order is a rather long one, and I will not undertake to read all of it, but I think that I should at least read into the record at this time the ordering clauses of that order. I now quote:

> "The Commission ORDERS:
>
> "A. The matters to be presented at the public hearing now in progress shall be only those relevant to the following issue set forth in the Commission's order of investigation issued October 29, 1948, to wit:

1541

"Whether Phillips Petroleum Company is a 'natural gas company' within the meaning of the Natural Gas Act.

"B. A public hearing be held upon the remaining issues set forth in the Commission's order of investigation issued October 29, 1948, at a time and place to be fixed by further order of the Commission.

"C. The motion to limit issue filed herein by Phillips Petroleum Company on March 27, 1951, is granted

[1542]

to the extent herein ordered, and in all other respects is denied. By the Commission. Commissioner Buchanan dissenting."

* * *

[1545]

HOWARD MARKLEY

resumed the stand, and having been previously duly sworn, was examined and testified further as follows:

Redirect Examination (Resumed) by Mr. McAllister

* * *

[1555]

Q. What are the orders of the railroad commission of Texas which control or govern the—I said govern—or specify the circumstances under which you may flare gas from any one of these three plants in Texas that we have been discussing? A. The commission issued cease-flare orders, which applied to McElroy Pool, Goldsmith, and Fullerton. The orders are a little bit ambiguous as to what the gasoline operator is in if he has to flare gas. I don't know what position we are in if we flare gas at the plant as far as violation of the commission's order is concerned. If the producers deliver the gas to us we take it. If we have to flare it, we flare it.

Q. And you don't know whether you are complying with the rule of the Railroad Commission or not, is that it? A. I am sure that we are. I understand that we are. We have been assured by the Commission representatives that we have not done anything that we will be criticized for or that they consider a violation.

Q. I mean, in other words, your rule is this, if the producers produce oil and gas in association with that oil, and that gas comes to you and the total volume at any time is in excess of that which you can dispose of as residue gas of the gasoline plant to the connections to which you normally deliver it, then that excess may be flared, is that the rule that you follow?

A. It is flared, yes, sir.

Q. What is that? A. It is flared.

Q. I mean is that the rule? You flare the gas if you have no immediate outlet for it? A. Yes, sir.

Q. And it is that rule that determines when you will flare and when not? A. Well, if we have more gas than we can handle, we flare it.

Q. Do you make any report— A. (Interrupting.) It is just a practice, not a rule.

Q. Suppose you flare five hundred million out of a plant each day—I don't say that you do presently—would you discontinue doing that day after day or would you be under any obligation other than this GP-1 report at the end of the month? Is that the only report you would be under obligation to make to the Railroad Commission, or would you make a special report of some kind saying the production is so much that we must flare, say, five hundred million cubic feet of gas per day, just what would you do? A. I would report it on the GP report for that month.

Q. And nothing else? A. No, sir.

* * *

[1562]

Examination by Mr. Torkelson

Q. Mr. Markley, you are, of course, an employee of Phillips Petroleum Company? A. I am.

Q. Prior to the time that you took the stand as a witness in this proceeding, you discussed your proposed testimony with the lawyers of Phillips Petroleum Company, did you not. A. I did.

Q. And you have discussed your testimony since the time you were first called as a witness during recesses

[1563]

and noon lunches and during the course of the evenings? A. Yes, sir.

Q. And in the course of that discussion the significance of the word "gathering" insofar as it affected the particular proceeding now before this Commission was explained to you, was it?

* * *

[1564]

A. It was not.

BY MR. TORKELSON:

Q. Was the term gathering discussed? A. I was asked what I called the lines, the wet gas lines, what we called them in the field, and I explained that we called them gas gathering lines.

Q. Have you ever read the natural gas act? A. No, sir.

Q. You have no idea as to the significance of that term as applied to that act? A. I am aware there must be a lot of significance applied to it from all the conversation about it, but I don't know what the significance is.

Q. You say there was a considerable conversation about it? A. I told you what was said, sir.

* * *

[1568]

Examination by Mr. McAllister

Q. Have you ever made any study to determine what in truth might be gathering or transmission or field or lease lines lying within the entire areas from which gas is collected through these four plants that we have been discussing, the Crane, the Eunice, Goldsmith and Fullerton plants? A. The question was pretty long. I missed the first part of it.

Q. The gist of it is have you made any study to determine how each of these lines ought to be classified? A. No. It isn't a matter of a study procedure. It is just a matter of practice that has existed through all my experience in the industry, Mr. McAllister.

Q. I was just asking you if you made a study to determine that. I mean you have just picked it up and used it as a matter of course, because that is what the lines are referred to in your day to day operation, is that right? A. Yes, sir.

Q. And it is because of that general use of the term that you have used it here, is that right? A. Yes, sir.

[1569]

Q. And you have made no study to determine whether or not it is in truth right according to some definition that someone might lay down? A. We know—

Q. Just answer the question. I mean it isn't based upon any study which you have made? A. No, sir, it is not.

Q. You don't know of any study that has been made of that character, do you? A. No.

MR. McALLISTER: That is all I have.

PRESIDING EXAMINER: All right, Mr. Sparks.

Recross Examination by Mr. Sparks

Q. Mr. Markley, in reviewing the facts with you concerning what you might be called upon to testify to in this proceeding, did I ever tell you how you should answer any question that might be put to you? A. You have not.

* * *

[1576]

GEORGE C. ROTH

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Joffee

Q. Will you state your name, please? A. George C. Roth.

Q. Will you spell it? A. R-o-t-h.

Q. What is your occupation? A. I am assistant to the operating manager of the Cities Service Gas Company.

Q. You have been subpoenaed to appear here as a witness on behalf of the City of Kansas City, Missouri, in this proceeding? A. I have.

Q. Are you familiar with the pipe line system of Cities Service Gas Company? A. I am.

Q. And particularly in the State of Oklahoma? A. I am.

Q. Mr. Roth, are you also familiar with the purchases of gas made by Cities Service Gas Company in the State of

[1577]

Oklahoma? A. Yes.

Q. Does it purchase gas from Phillips Petroleum Company at any other place on the Phillips system? A. No.

Q. Will you explain just where Cities Service Gas Company does purchase gas from Phillips Petroleum Company? A. The Cities Service Gas Company purchases gas from the Edmond field, the Hunton unit, of which Phillips Petroleum Company is a member.

Q. The Edmond field is located in Oklahoma County? A. Yes.

Q. And the purchases made by Cities Service Gas Company are made in fact from Phillips Petroleum Company, isn't that true? A. No, the gas is bought from the Edmond unit of which Phillips Petroleum Company is a part or participant.

Q. Do you pay your money to Phillips or to someone else? A. We pay Phillips.

Q. You pay your money to Phillips Petroleum Company? A. Yes.

Q. For all of the gas that you acquire from the Edmond unit, is that correct? A. That is correct.

[1578]

Q. Do you know of the exact interest which Phillips Petroleum Company has in the Edmond field unit? A. My information is that it is about 19.6 per cent.

Q. That is based on the records of your company, Mr. Roth? A. Yes, sir.

Q. Where does Phillips Petroleum Company or the Edmond unit deliver the gas to you? A. At the discharge of the West Edmond plant and the Hunton plant and the Trindle plant.

Q. Do you have information as to the amount of gas which was delivered to Cities Service Gas Company at those points in 1948, '49 and 1950? A. Yes, sir.

Q. Will you give them, please? A. In 1948, Cities

Service Gas Company received from the so-called West Edmond plant 25,876,651 Mcf; in 1949 from the same plant, 29,993,377 Mcf; in 1950 from the same plant, 30,058,127 Mcf; there was no gas received from the Hunton or Trindle plant during 1948 and '49. In 1950, the Cities Service received from the Hunton and Trindle plants 6,495,704 Mcf. That is on a 16.4 pounds pressure base.

Q. At what prices were these respective quantities of gas sold or delivered to the Cities Service Gas Company?

A. I only have the average prices for the year. 1948, 5.8 cents; 1949, 6.2 cents; 1950, 6.4 cents.

Q. Mr. Roth, the gas is metered to Cities Service Gas Company at what pressure? A. The gas is metered at delivery pressure, approximately 500 pounds pressure.

Q. And after entering the Cities Service Gas Company's pipe line at the Edmond field plant, will you then trace the flow of the gas from that point? A. You mean specifically as to volumes or generally, Mr. Joffee?

Q. Generally as to volumes and the approximate amount of volumes as best you can, Mr. Roth. A. From the West Edmond plant, approximately 16 million cubic feet per day go directly to Oklahoma Natural Gas Company's line. Approximately 28 million per day goes into the Cities Service Gas Company's 10-inch line, which feeds into the Oklahoma City-Blackwell 20-inch line. Approximately 41 million cubic feet per day feed into a 12-inch line to Drumright compressor station. From the Hunton and Trindle plants, approximately 29 million cubic feet per day feeds through 8- and 12-inch lines into the Oklahoma City-Blackwell 20-inch line. Of the gas that feeds into the Oklahoma City 20-inch line, approximately 30 million per day is later delivered through a 16- and 12-inch

[1580]

line to Drumright station. I believe that gives the disposition of the Hunton gas.

[1581]

Q. Now, from the Drumright station, in what direction does the gas flow? A. North, from Drumright to the general system, extending into Kansas and Missouri.

PRESIDING EXAMINER: Where is the Drumright station located?

THE WITNESS: The Drumright station is in Oklahoma, probably 60 miles south of the Kansas line. I am not sure of that distance, Mr. Examiner.

BY MR. JOFFEE:

Q. Now, Mr. Roth, the gas flows from the Drumright station in Oklahoma north and east to the Tallant station, which is also in Oklahoma, does it not? A. Yes, sir.

Q. And from thence into the Caney station in Kansas, is that correct? A. No, sir. That gas from that line does not go to the Caney station. It feeds directly to Gravois station in Kansas, due north.

Q. And from thence into the state, farther into the state, of Kansas, and into the State of Missouri, is that correct? A. Yes, sir.

Q. And it is intermingled with other gas which later flows in a northerly direction up to Kansas City, Missouri,

[1582]

isn't that correct? A. Yes, sir.

Q. And isn't that generally true also of the gas that flows north to the Blackwell station and from thence northerly through Kansas up to Kansas City, Missouri? A. Yes, sir, that is true.

Q. Would you be able to say approximately what proportion of the gas which is delivered at the Edmond Field to Cities Service Gas Company reaches the states of Kansas and Missouri? A. It would be only an estimate, but probably about 75 per cent of it.

Q. What part of the deliveries per day do Cities Service Gas do? A. Sir?

Q. What do they average, what do these deliveries average a day each day from the Edmond Field to Cities Service Gas Company? A. About 115 million a day.

Q. About 115 million cubic feet of gas per day? A. Yes, sir.

Q. And you pay for that gas to Phillips Petroleum Company and of that gas, according to the records of your company, Phillips Petroleum Company has a 19.6 per cent interest, is that correct? A. Yes, sir.

[1583]

Q. Do your company's records show how much gas was sold and delivered by Cities Service Gas Company to the city gate at Kansas City, Missouri? A. Yes, sir.

Q. Was that gas sold to Gas Service Company at the city gate? A. Yes, sir.

Q. Will you give the figures in volumes and dollars for the years 1948, '49 and '50? A. In 1948 deliveries by Cities Service Gas Company to the Gas Service Company at Kansas City, Missouri, town borders amounted to 23,386,264 MCF. The amount charged for that gas was $3,936,154.56.

In 1949 the deliveries were 26,153,946 MCF, amounting to $4,395,841.63.

In 1950 the deliveries were 41,881,745 MCF, amounting to $6,451,086.02.

Q. Do you have the average price per MCF paid for those three years? A. Yes, sir. The average price at Kansas City, Missouri, town border in 1948 was 16.8 cents, for 1949 it was 16.8 cents, and for 1950 it was 15.4 cents.

Q. Mr. Roth, do you know that that gas was delivered to Gas Service Company at Kansas City, Missouri, for distribution and sale for ultimate consumption in Kansas City, Missouri,

do you not? A. Yes, sir.

* * *

Q. Do you happen to know the location of the meters measuring the gas delivered to Cities Servies Gas Company at the Edmond Field? A. Yes, sir. I thought I had a memo on that. But the gas from the West Edmond Plant is measured approximately—I would like to change that. There are two meters. Part of the gas from the West Edmond Plant is measured approximately 5 miles from the plant, east of the plant, and part of it about 8 miles northeast of the plant.

Q. Is it measured on property of Cities Service Gas Company or on property of Phillips Petroleum? A. Cities Service Gas Company property.

Q. Does this gas come from the Edmond Gasoline Plant in part? A. Sir?

Q. Does this gas come from the Edmond gasoline plant in part? A. Yes, sir.

Q. Most of it comes from the Edmond Gasoline Plant,

isn't that true? A. The gas that we buy from the Edmond Field comes from the Edmond Gasoline Plant, and Hunton Plant and the Trindle Plant.

Q. Will you spell those words for the reporter, please. A. E-d-m-o-n-d, H-u-n-t-o-n, T-r-i-n-d-l-e.

Q. Isn't it a fact that the Edmond Gasoline Plant is operated by the Phillips Petroleum Company? A. Yes, I understand it is operated by Phillips Petroleum Company.

Q. The other two plants are not operated by Phillips, is that correct? A. I don't believe they are.

Q. Mr. Roth, is the flow of the gas from the Phillips Petroleum Company's facilities into the pipe line of Cities Service Gas Company, and from thence through the pipe lines of Cities Service Gas Company, into the lines of various local distributing companies continuous and uninterrupted? A. With the exception of gas put into underground storage in the summertime and then moved on to the markets in the wintertime.

Q. And that applies to the gas delivered to the City of Kansas City, Missouri, also? A. Yes, sir.

Q. And these gas storage fields to which you refer

[1586]

are located outside of the State of Oklahoma, are they not? A. Yes, sir, they are in Kansas.

Q. They are in the State of Kansas? A. Yes, sir.

* * *

Examination by Mr. Joffee

Q. Perhaps I had better ask this, Mr. Roth, the gas that goes into storage between the points of delivery in the Edmond Field and Kansas City, Missouri, are at the north and south Welda Storage Fields and Craig Storage Fields, is that correct?

[1587]

A. That is correct.

Q. Usually in the wintertime that gas or some substantial part of it reaches the City of Kansas City, Missouri, isn't that true? A. Yes, sir.

Q. And is delivered into the distributing system in Kansas City, Missouri? A. Yes, sir.

* * *

[1590]

Q. Were there subsequent contracts entered into with respect to this gas field, Mr. Roth? A. Yes. In 1949 Cities Service Gas Company negotiated

[1591]

a contract to take gas from the Hunton plant and the Trindle plant.

they not? A. No; the Trindle plant is just a compressor

thel not? A. No; the Trindle plant is just a compressor

plant at this time.

Q. Is that plant operated by Phillips Petroleum Company. A. I don't know who operates it. We are dealing with the unit and the Sohio Oil Company represents the unit under that contract, but I don't know who operates the plant.

Q. So far as the Trindle plant is concerned, does the Cities Service Gas Company pay its money to Phillips for the gas or does it pay its money to Sohio Oil Company? A. The Cities Service Gas Company pays the money to Phillips upon an order from the Sohio Oil Company.

Q. Do you know—I don't know whether I have made myself clear—whether Phillips Petroleum Company actually operates the Trindle compressor station? A. I don't know.

Q. What was the name of the other station? A. The Hunton plant.

Q. Is that operated by Phillips Petroleum Company? A. I don't know. I understand that it is not, but I don't know for certain.

Q. For gas delivered from that plant does the Cities

[1592]

Service Gas Company pay therefor to Phillips Petroleum Company? A. Yes, sir.

Q. And with respect to the gas delivered from the Trindle and Hunton plants Cities Service Company entered into the contract in 1949? A. Yes, sir.

Q. As a seller of the gas? A. Cities Service Gas Company entered into the contract as the buyer.

Q. As the buyer? A. Yes, sir.

Q. And the Phillips Petroleum Company entered into it as the seller of the gas? If you don't know, we will refer to the contracts later. A. Under that contract we made separate contracts with the majority of the unit interests. I suppose 95 to 98 per cent of the interests. The remaining part of the gas is delivered to us by Sohio for the other interests, so long as they don't want to deliver those particular interests, don't want to deliver to some other market.

Q. But in each instance you pay Phillips Petroleum Company for the gas as the seller thereof, is that true or not? A. We pay them the money: I wouldn't say we pay it to them as the seller of the gas. We pay the money to them

[1593]

under an agreement. They disburse the money to the other interests.

Q. Was the last contract entered into that of 1949? A. Yes, sir.

Q. Was this Hunton plant a gasoline plant? A. Sir?

Q. Was this Hunton plant—is that the name of it—a gasoline plant? A. Yes, sir.

Q. And you do not know who operates that plant? A. No.

* * *

[1602]

Cross-Examination by Mr. Sparks

Q. Do you understand, do you know, what kind of gas is produced from the West Edmond unit, that is, whether it is casing head gas or dry gas? A. I understand that it is casing head gas.

Q. Produced from wells that produce oil? A. Yes, sir.

Q. Now, I believe in answer to a question on direct examination you stated that you paid the Phillips Petroleum Company for the purchase price for the gas which was delivered to Cities Service from these three plants, and it was your understanding that the Phillips Petroleum Company disbursed that money, I believe you said, to other interests. What other interests did you have in mind? A. I mean the interests in the Hunton unit and the money was disbursed in proportion to the ownership of gas of those interests, of the gas that was sold.

Q. Were those interests the lease owners? A. Yes, sir.

Q. I believe you stated that delivery of the gas was

[1603]

made to Cities Service at the discharge of the plants. A. Yes, sir.

Q. And the Cities Service owns the lines from that point on wherever the gas is taken? A. Yes, sir, that is right.

Q. And although some of the gas, all of the gas, from the Edmond plant, is metered at some distance from the point of delivery Cities Service also owns those meters, is that right? A. Yes, sir.

Q. Taking the gas from the West Edmond plant, I believe you said first that approximately 16 million per day is delivered to the Oklahoma Natural line, is that right? A. Yes, sir.

Q. Where is that delivery made? A. That is a direct connection between the Oklahoma Natural lines and the Edmond plant. The Oklahoma Natural constructed a line from their pipe line system approximately three quarters of a mile north of the plant down to the plant, and take delivery of the gas, of course, at the plant.

Q. All right, then does Oklahoma Natural pay you for the gas that they receive? A. Yes, sir.

Q. And do you know the disposition of the gas which Oklahoma Natural takes in their line, do you know where it goes?

[1604]

A. It goes into their general pipe line system.

Q. And do you know where the gas goes in their general pipe line system? A. Only to their markets and Oklahoma, Oklahoma Natural is an intrastate company. All of their lines are in the State of Oklahoma, and they distribute gas in Oklahoma City, for example, and at Tulsa and numerous other smaller towns.

* * *

[1657]

On the sale of the gas out of the West Edmond plant by Phillips to Cities Service or by Phillips and Continental Oil Company, where does that sale take place, does your line run clear up to the plant, to the fence around the plant, or what point? A. As I recall, the delivery is made at the plant fence, at or near the plant fence, the boundary of the plant.

Q. Which is several hundred feet from the plant? A. I don't remember what the distance would be.

Q. What is that— A. I believe our agreement is that we were to take the gas at the property line of the plant.

Q. I see. You have a line leading away from that point. That is what size line would you say? A. We have from the West Edmond plant a 10-inch line and we have a 12-inch line.

Q. Yes? A. And Oklahoma Natural has an 8- or 10-inch line.

Q. All of those lines run from, let's say, the property line? A. Yes, sir.

* * *

[1666]

A. H. SCHUMACHER

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Joffee

Q. Just state your name, please. A. A. H. Schumacher.

Q. Where do you live, Mr. Schumacher? A. Kansas City, Missouri.

Q. By whom are you employed? A. The City of Kansas City.

Q. In what capacity? A. As utilities engineer.

* * *

[1667]

Q. Do you know of your own knowledge what natural gas distribution companies now serve Kansas City? A. I do.

Q. What are they? A. The Gas Service Company and The Central West Utility Company.

Q. From what natural gas pipe line companies do these respective utilities purchase their gas? A. The Gas Service Company purchases its gas from the Cities Service Gas Company and The Central West Utility Company is supplied by Panhandle Eastern Pipe Line Company.

* * *

[1668]

Q. Do you have the figures on the amount of gas purchased by Gas Service Company from Cities Service Company for its Kansas City, Missouri, division in the years 1948, 1949, and 1950? A. During the year 1948 The Gas Service Company purchased from the Cities Service Gas Company 23,362,630 and 2/10 Mcf; for 1949 26,101,079 and 5/10 Mcf; and during 1950

[1669]

41,792,183 and 3/10 Mcf.

* * *

Q. How much gas did the city government of Kansas City, Missouri, buy from The Gas Service Company during the year 1950? A. 191,425 Mcf.

Q. And that was represented by how many different accounts of The Gas Service Company? A. We have, I believe, 72 accounts with The Gas Service Company.

Q. So the city administration is a user and purchaser of gas as well as the people of Kansas City? A. That is right.

Q. These sales of gas by these two respective utilities are continuing in Kansas City, Missouri, at the present time, are they not? I am referring now to the distributing companies. A. Yes, they are continuing.

Q. And both companies operate under franchises granted to them by the city government of Kansas City, Missouri, isn't that correct? A. That is true.

* * *

[1671]

ROBERT BOYD STEWART

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Purdue

Q. Will you state your name? A. Robert Boyd Stewart.

Q. Where do you live, Mr. Stewart? A. I live in Bartlesville.

Q. What is your position with the Phillips Petroleum Company? A. I am Assistant Manager of the Natural Gas Department.

* * *

[1674]

Q. I hand you what is designated as a notegram, dated July 7, 1948, and which recites "Memo to Allen B. Hyatt from R. B. Stewart." Did you prepare that notegram? A. Yes, sir.

1674

Q. And also the attached sheet entitled "Additional Acreage Shown by New Michigan-Wisconsin Exhibit A"? A. Yes, sir.

* * *

[1680]

MR. PURDUE: Mr. Examiner, I'd like at the present time—I don't care to argue that point at this minute—to have the memorandum dated July 7, 1948, which the witness has stated that he prepared, marked for identification as the next exhibit in order.

PRESIDING EXAMINER: That will be marked for identification as Exhibit No. 53.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED FOR IDENTIFICATION AS EXHIBIT NO. 53.)

PRESIDING EXAMINER: Would you describe that please for the record. I believe that it is a notegram from Mr. Stewart to Mr. Hiatt dated July 7, 1948?

MR. PURDUE: July 7, 1948, consisting of one sheet and an attached sheet also in the handwriting of the witness entitled additional acreage shown by new Michigan-Wisconsin Exhibit A.

* * *

[1744]

MASON G. WALTERS

resumed the stand, and having been previously duly sworn, was examined and testified further as follows:

Redirect Examination (Resumed) by Mr. McAllister

Q. Mr. Walters, you are the same Mason Walters who has heretofore testified in this case and been sworn? A. I am.

MR. McALLISTER: Mr. Examiner, I ask to have marked as Exhibit 54 a document identified as outside sales of Natural Gas, year 1950.

PRESIDING EXAMINER: It will be so marked.

* * *

Q. Mr. Walters, I refer you to Exhibit 54, which has been marked for identification, and ask you whether or not that exhibit was prepared by you. A. It was.

Q. Referring to the first sheet in that exhibit, let's call it first page, because there is following that another document marked Sheet I, which is a photostat of certain pencil or pen figures, and at the top of that sheet

[1745]

marked Sheet 1 of one, it is indicated that that is a summary for the year 1950 of outside sales of natural gas by Phillips Petroleum Company, is that right? A. That is right.

Q. When you refer there to outside sales do you mean by that sales by Phillips Petroleum Company to individuals and companies who are not a part of the Phillips organization as contrasted with inside sales represented by volumes of gas delivered by Phillips Petroleum Company to other departments of the Phillips Petroleum Company for chemical, synthetic rubber or what not, where the operations are carried on by Phillips Petroleum Company within their own organization, is that right, is that an accurate description? A. That is correct.

* * *

[1786]

MR. McALLISTER: Mr. Examiner, I ask to be identified at this time an exhibit identified as outside sales of natural gas for the year 1949, and ask that it be marked for identification as Exhibit No. 55.

PRESIDING EXAMINER: It will be so marked.

* * *

Q. Mr. Walters, do you have a copy of Exhibit 55 for identification before you? A. Yes, sir.

Q. Was that exhibit prepared by you? A. Yes, sir.

* * *

[1787]

Q. Sheet 1 is a summary sheet, is it not? A. Yes, sir.

Q. Is that summary sheet in Exhibit No. 55 the same, I mean so far as heading, descriptive content and so forth, as the summary sheet in Exhibit 54? I mean other than the different in pressure base. A. There is a small difference in pressure base here, this being at 14.735 p.s.i.a. The headings are the same as in Exhibit No. 54. There is a slight difference in some of the items on the left-hand side. By that I mean the sales to the Wasatch Oil Refining Company appear on this exhibit and did not appear on the sales for 1950. Outside of that they are similar.

* * *

[1789]

Q. And without going through the individual details on this exhibit on the summary sheet, is it true that the items that appear on the total sales and total sales dollars, the first being Mcf, are figures reflected on the records of Phillips Petroleum Company for the year 1949? A. They are.

* * *

[1796]

A. M. RIPPEL

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Purdue

Q. Will you state your name? A. A. M. Rippel.

Q. Where do you live, Mr. Rippel? A. Bartlesville, Oklahoma.

Q. What is your profession? A. I am employed by Phillips Petroleum Company.

Q. What is your position with that company? A. I am now manager of the Gas Department.

Q. How long have you held that position? A. Since March 1, 1951.

Q. How long have you been in the employ of the Phillips Petroleum Company? A. Since December 1, 1925.

Q. Will you state the other positions which you have held and the respective lengths of time that you occupied those positions? A. With Phillips Petroleum Company?

Q. Yes. A. From December 1, 1925, until December 1, 1937, I

[1797]

was evaluation engineer attached to the Comptroller's Department. December 1, 1937, I was transferred to the natural gasoline and gas department as assistant manager of the gas division. I held that position for a year or year and a half and was then more or less considered the manager of the division. However, I believe it was not on any chart. And I have held that position, then, up until March of this year.

* * *

[1867]

HOWARD MARKLEY

resumed the stand, and having been previously duly sworn, was examined and testified further as follows:

* * *

[1869]

MR. McALLISTER: Mr. Examiner, I would like to have marked for identification as Exhibit No. 58 a statement which has been supplied by Mr. Sparks showing volume of gas processed and the volume flared from gasoline plants in the Panhandle-Hugoton Field, such plants being the Dumas plant, Sherman plant, Hansford plant, Gray plant and Sneed plant for the year 1950 and for the month of March 1951.

PRESIDING EXAMINER: That will be marked for identification as Exhibit No. 58.

* * *

MR. McALLISTER: I offer at the same time, Mr. Examiner, as Exhibit 59, for identification a tabulation showing the same information for the years 1950 and for the month of March 1951 in relation to the Crane plant, Goldsmith plant, Fullerton plant and Eunice plant in what is known as the western district gasoline plants of Phillips Petroleum Company, they being the plants in the Permian Basin.

MR. McALLISTER: Isn't that true, Mr. Markley?

THE WITNESS: Yes, sir, that is true.

PRESIDING EXAMINER: The document described by counsel will be marked for identification as Exhibit No. 59.

* * *

[1870]

MR. McALLISTER: So the exhibit may be marked for the furnishing of the copies, I offer them in evidence at this time, Mr. Examiner.

PRESIDING EXAMINER: Is there any objection to the exhibits 58 and 59?

(No response.)

PRESIDING EXAMINER: Exhibits 58 and 59 are received in evidence.

* * *

[1881]

A. 1313. And the lines are 19 to 23, 19 through 24, since giving this testimony I have checked the sales records and find that I was mistaken there had been occasions due to cold weather when we were entirely out of gas for sale to El Paso from these four plants. The answer to the question beginning with line 19 should be, "Well, they have down time, too, of course, except for the times when they are down or we are down, it would be continuous."

Q. Then that would be eliminating the volumes of the gas produced in the field does not leave sufficient residue—You eliminate those words. I mean in other words, the volume of gas, there is also a continuous and uninterrupted flow to El Paso?

[1882]

A. With the exceptions that I put in the answers, yes, sir.

Q. Except when they are down for some reason or you are down for some reason, a line break or something like that? A. That is correct.

* * *

[1898]

Q. The last reference you made was to page 1419, line 10, that was that answer you corrected. A. That is the last one, yes, sir. The next one will be on page 1421, line 11. We got into that somewhere later in the record and it was a misunderstanding. The answer on line 11, page 1421, should be yes, sir.

* * *

[1902]

MR. McALLISTER: They are right on this question. "To" is what it should be. It should be a correction actually in the record.

* * *

[1973]

PRESIDING EXAMINER: Is there any objection to these exhibits? [Exhibits 54 and 55.]

MR. SPARKS: We object to the dollar figures as being irrelevant.

* * *

[1975]

PRESIDING EXAMINER: The objections to Exhibits 54 and 55 are overruled.

Those exhibits are received in evidence.

* * *

[1977]

A. M. RIPPEL

resumed the stand, and having been previously duly sworn, was examined and testified further as follows:

Direct Examination (Resumed) by Mr. McAllister

Q. Mr. Rippel, as I recall your testimony, you were first employed by the Phillips Petroleum Company as an evaluation engineer? A. That is correct.

Q. You are a graduate engineer, are you? A. Yes, sir.

Q. And you were employed as an evaluation engineer from December 1, 1925, until December 1, 1937, as I recall your testimony? A. That is correct.

Q. And from December 1, 1937, until the present time you have been with the gas department of Phillips Petroleum Company? A. The gas division and then the department.

Q. The gas division up until March 1, 1951, and then the gas division from then on?

[1978]

A. Gas department from then on.

Q. Gas department from then on. And you are manager of the gas department now and has there been a substantial change in your duties or have they remained substantially the same as they were prior to March 1, 1951? A. My responsibilities have been increased to the extent of the gathering of gas where the market determines the amount produced.

Q. That would be, for example, the sales through Sherman and Hansford plants? A. That always has been my responsibility, the sales through Hansford plant.

Q. Can you give us an example of the increased duties to which you refer related to operations? A. Where the market determines the amount of production, the gas department has the responsibility of the gathering, the actual control over the men in the field. Prior to March 1, 1951, that responsibility was in the gasoline division of the natural gasoline and gas department, they having been our operators, that is the gas divisions operators.

Q. Yes. Now give me an example of where that existed prior to March 1 and where they are now under your jurisdiction and supervision? A. In dry gas fields and in distillate fields, we have the complete operation from the well to the sale, with the

[1979]

exception of the extraction of the gasoline.

Q. Yes. Now, where— A. (Interrupting.) Prior to March 1 we did not.

Q. What is an example of an operation where that— A. (Interrupting.) The Borger area.

Q. What? A. The Borger area.

Q. Is that the only one you recall? A. No. The Michigan-Wisconsin area, Panhandle Eastern area.

Q. The what? A. Panhandle Eastern, Hansford block, Chocolate Bayou area. Well, the Chocolate Bayou area doesn't change. We have always produced that.

Q. How about the Permian Basin? A. The Permian Basin, we have the gathering and sale. As far as responsibility of the actual gathering, has done by the natural gasoline department, because in that instance the sale does not determine the amount of production. The control cf the gas produced is in the hands of the others, the oil operators.

Q. Am I to understand that no one of the gasoline plants that we have been talking about in this proceeding, the Hansford plant, Sherman plant, the Gray plant, the Dumas plant, or the Sneed plant, none of those come under your jurisdiction?

[1980]

A. Insofar as extraction of natural gasoline and other liquifiable hydrocarbons, it does not.

* * *

[1981]

Q. In all of the cases where you have jurisdiction over the gathering of gas, as you call it, that gas moves from the well head through connecting pipe lines into the plant, gasoline plant? A. If there is a gasoline plant where we gather gas, it does enter a plant which is partly a part of the gathering system.

Q. Why do you say it is a part of the gathering system? A. Because it, in fact, is. The gas is not gathered until it's —at least the residue part of it is not gathered until it is— delivered for sale.

Q. Why do you say that? You are defining your statement by a restatement of the same proposition? A. Well, I want it clear.

Q. I mean you just repeated it. It is because it is. What are the facts? The gas when it enters the gasoline plant has been assembled into a single continuous flowing stream, isn't that right?

[1982]

A. Don't ask me about too many facts about what happens at a gasoline plant.

Q. I am not. This question I have has nothing to do with a gasoline plant. I said it comes into the plant and is collected into one continuous flowing stream that is the commingling of all of the gas from whatever source it comes at that point, isn't that a fact? A. The raw gas, yes, is commingled at one point.

Q. And that is the entire input of gas into the gasoline plant? A. Raw gas, yes.

Q. And nothing remains to assemble the volume which is the volume to be processed through the plant? A. The volume of raw gas to be processed in the plant, that is correct.

* * *

[1985]

Q. You know the principal elements in a gasoline plant are, first, the scrubbers, I mean passing up other incidental equipment as it goes through the scrubbers, you know that the flow is continuous, do you not? A. Yes, sir, it is in a series of baffle plates.

Q. In that operation there is no equipment between the point gas comes in to the plant and up through the scrubbers, where the flow is not continuous. True, there may be compressors in there, but the gas goes into a common header and through the compressors and on through the scrubbers, is that right? A. I thought the testimony here was that the gas comes through the scrubbers first, to take out impurities, and then goes to absorbers.

Q. Well, what you say may be true. I think you are probably right. A. I don't know too much about the detail.

Q. Well, through the scrubbers, through any compressors that may be there and through the absorbers, there is no piece of equipment along there that interrupts the continuous flow of the gas?

[1986]

A. Not to my knowledge.

Q. And then from the absorbers, disregarding the overhead vapors and what not that may be recovered through the distillation of the circulating oil in the absorbers, the residue gas out of the absorbers continues in its uninterrupted flow on through the lines that carry the residue gas to, let's call it, market, whether it be a carbon black plant or to a pipe line such as El Paso, Panhandle or Michigan-

Wisconsin? The gist of that question was—I made it a little bit long— A. (Interrupting.) Outside of perhaps treating the gas, I believe the gas is in constant movement. However, we must consider the overhead vapors coming in, because that is a part of the residue, which is sold.

Q. Well, those overhead vapors move into the residue stream, although they are first absorbed, I mean they are a part of the liquid hydrocarbons absorbed in the circulating oil in the absorbers, and then after renovating that oil they are recovered overhead as vapors and led back into the residue gas stream? A. Led back to the stream which makes it all the residue gas.

* * *

Q. I just wanted to state that you did not know of any such interruption to the flow of gas in the manner in which I described it in my question. The gathering lines which come under your jurisdiction—let me put that a little more clearly—the gathering lines which are in operation between the wells and the gasoline plant are assembled or laid in a form which provides for large diameter pipe lines, relatively speaking, which connect with the gasoline plant and as they fan out to the wells they reduce in size and

increase in number as they connect to the various wells in the field, isn't that right? A. Yes; a gathering system is designed by the engineers to provide a minimum drop of pressure, considering economics, through their experience they estimate which is the most economical type of a system to build to gather the gas for processing and sale.

Q. That is indicated by the manner in which the lines are designated on the maps of your engineers by the large lines being given a letter designation, such as A, B, C, D, and then as the lines lead away from those, they are given A-1, A-2, or whatever designation they deem appropriate, in other words, the A, B, C, lines lead into the plant and the other lines are lines connected with the letter designations to which a further numeral or letter is attached, isn't that right? A. I learned about three weeks ago that that is correct. I didn't know it before that. That is on some maps and on our engineering maps that is so.

Q. Your engineers are the ones who design the lines? A. That is correct.

Q. And the system which they laid out is the system which they designed? A. Yes.

Q. And you are familiar with these exhibits, 12, 13, 14

[1992]

and 15, are you not? A. May I see them, please?

Q. That is 12. This is 14-A. A. I have seen the exhibits.

Q. Those lines with the letter designation on them, whether 16 or 24-inch lines on Exhibit 12 leading into the Hansford plant, might be given a name or descriptive term and they might be called trunk lines, might they not? A. In the first place they lead into the Sherman plant.

Q. Oh, Sherman plant, yes, sir. A. And you may call them trunk lines. I wouldn't. We don't speak of them in that manner.

1992

Q. I know you don't speak of them that way, but looking at that map and considering their size and the branch lines emanating from them, they provide the trunk line connections between the smaller lines in the field and the plant, do they not? A. They provide the connection through large diameter pipe.

Q. Why would you object to calling them trunk lines? A. If you wish to define them as trunk lines, I'll use trunk. I just don't refer to them as trunk.

Q. Well, you can call them backbone lines, then? A. I call them large gathering lines.

Q. I know you would. You like the term gathering, but

[1993]

I was trying to select a term that would be descriptive without trying to use the term—I could call them transmission lines, but I don't for the purpose of this questioning. I am trying to gather from you, through your knowledge of the facts, what the function is of those lines in relation to all of the lines in a particular area. A. The function is gathering gas.

* * *

[2014]

Q. Why do you say that gathering can't be completed until the gasoline has gone through the gasoline plant? A. The only purpose of gathering natural gas is to dispose of it, whether through use, sale and the gas, the natural gas, as produced is gathered, prepared for market and disposed of, in its preparation, the liquifiable hydrocarbons are taken out, removed and sold. That is a part of the natural gas.

After the extraction of the liquifiable hydrocarbons, the term residue is commonly used, and that is what is sold or used in the majority of our sales and uses.

* * *

[2020]

Q. I will, I will; you go ahead and take all of the time you want to explain your answer. A. Gathering of natural gas, to me, is the collection of the gas from wells or points in or near the leases where

[2021]

the gas is produced to a point or points in or near the field of production through his system of pipe lines and the preparation of the gas for market. Now, as I started to say, you are asking me for maybe a legal interpretation. You stipulate the point of delivery, and I assume the title to the gas is passed to Michigan-Wisconsin. The part that to me is still a conditioning, that didn't happen, and that to me is part of gathering, the conditioning of natural gas to make residue gas and gasoline. Now, as to whether legally that would be part of gathering, it is in or near the field. A hundred miles wouldn't be in or near the field.

Q. Five miles would? A. Well, it would be. There could be wells on the other side of it. I know there are wells on the other side of the Hugoton field beyond a point of five miles from the Sherman plant. That is the basis—

Q. (Interrupting.) From which the gas comes into the Sherman plant? A. No. Well, yes, the gas comes into Sherman plant, yes. Gas from Texas County, Oklahoma.

2021

Q. You would say, then, that even though the gasoline plant was located on the downstream side from Michigan-Wisconsin compressor station where you owned the plant and you processed the gas and the contract with Michigan-Wisconsin gave you that opportunity or that right, gathering has not

[2022]

been completed until you process the gas? A. Well, it is a function of gathering.

Q. I mean you are telling me that now, but I am asking you a practical problem. Do you say that gathering— A. (Interrupting.) You just don't do it that way practically, Mr. McAllister.

Q. No, but you thought about it here under this circumstance and I'm trying to find out what the limits of your definition are. A. I tried to answer.

Q. Tell me this, is the gasoline plant if on the downstream side from the first compressor station of Michigan-Wisconsin and it is your gasoline plant and you operate the gasoline plant and you take out of the stream of gas the liquid hydrocarbons in the same fashion in which you do now, would you say that gathering has not been completed until the gas leaves your gasoline plant under those circumstances? A. I thought I answered that.

Q. Well, it either has been completed prior to that time or it has not? A. The gas certainly has been conditioned for market and that is part of my idea of gathering. As to location beyond where the title to the gas has gone to Michigan-Wisconsin, the actual function is the same.

* * *

[2024]

Q. Now I ask you another question, and I have given it to you, where you deliver the gas to Michigan-Wisconsin, they

[2025]

compress it, and then it passes through your gasoline plant, and I have asked you if, in your concept, under those circumstances gathering has not been completed until the gas passes out of your gasoline plant, and you can answer that yes or no, if you will. A. Under that circumstance, that is a function of gathering.

Q. And gathering has not been completed, just answer that question. You argue. Has it been under those circumstances, you say that gathering has not been completed until the gas passes through that gasoline plant? A. I think that is right.

Q. All right. Now, then, the next question, all of the facilities of Michigan-Wisconsin upstream from the gasoline plant are gathering facilities, is that right, the compressor station and the pipe line that they have is a part of the gathering, is that right? A. I wouldn't so consider it.

Q. You wouldn't so consider it. In other words, you have gathering facilities and transportation facilities and gathering facilities again, is that right? A. The gasoline plant, the residue gas as conditioned and delivered to them is a function of gathering and that is what is done.

Q. Then on a gasoline plant it wouldn't make any

[2026]

difference if it was a hundred miles upstream, then, it wouldn't be completely gathered until it went through the gasoline plant, no matter where it is located, is that right? A. I believe I would call it a different function if it weren't in or near the field, Mr. McAllister.

Q. It has to be in or near the field? A. That is correct.

* * *

[2030]

A. If I understand this exhibit correctly, the first time that the raw gas is commingled is in the 26-inch header which shows under that absorber with the numeral nine after it. That is insofar as the raw gas volume is concerned. My idea of gathering is the preparation of the gas which we are going to market. That is part of gathering.

Q. In other words, in the first place the entire volume of gas into a plant must be assembled in one volume? A. It could be a separate volume for different sale. I don't just recall what plants in our system that might apply to. There could be separate systems for different sales on different specifications.

Q. Well, there might even be two volumes going to the one sale if the volume is joined afterwards for some purpose of operation, isn't that right?

[2031]

A. If the residue that was sold joined after the processing through the absorbers, it would still be a function of gathering, yes, sir.

Q. Which would be the function of gathering? A. The entire operation, gathering the product of which we dispose, just as we gather the gasoline in the tanks.

* * *

[2032]

THE WITNESS: If the natural gas as produced is not dehydrated, desulphurized, compressed, liquified hydrocarbons taken out or removed or any other operation incidental to the conditioning of the sale of this natural gas, if none is done before delivery to a market, that is my idea in a general way of gathering.

* * *

[2037]

Q. All right, I'll limit that question to gathering as you have defined it. A. The functions that we do in the collection of gas through a system of pipe lines and preparing it for market in accordance with our contracts is gathering.

Q. And if you have to dehydrate and remove sulphur under your contract, then that is a part of gathering,

[2038]

according to your notion? A. That is certainly the way I believe.

Q. And if under the contract you are not required to do that, then it is not a part of the gathering? A. By my own understanding of gathering, the way I look at it, that is correct.

* * *

[2093]

Q. Yes, but in the normal course of business, day to day operations, hour by hour, minute by minute, there is a volume of gas flowing from Phillips to Michigan-Wisconsin. I don't say it is constant, but it varies as to certain amounts, but there is that constant flow of gas? A. That is correct.

Q. And in order to provide that constant flow of gas to Michigan-Wisconsin there is a constant production in the wells connected with what you call your gathering system, isn't that right? A. The gas must be produced from the wells before it can be gathered and delivered to Michigan-Wisconsin, that is correct.

Q. The question is this, in order that there be that constant flow out to Michigan-Wisconsin, there must be a constant production and movement of gas through what you call your gathering system. The constant flow to Michigan-Wisconsin

[2094]

would not be possible without the constant flow from the wells in your Sherman system through what you term your gathering lines, is that right? A. Constant flow through the entire facilities, yes, sir.

Q. And the same is true at the Hansford plant, through the gathering system of the Hansford system, as you define it, through the Hansford plant and through your connection with Panhandle Eastern, is that right? A. That is the purpose of gathering the gas.

Q. I know it is the purpose, but I'm asking you as a fact— A. (Interrupting.) To fill the market you have to produce it and you have to gather it.

Q. And it is a constant movement right all the way through? A. With possibly a drop in pressure, why, there is constant movement.

* * *

[2097]

Q. You haven't so stated. All right, I just misunderstood you. And just as the movement of gas through the Hansford and Sherman plants from the wellhead to the point of delivery with Michigan-Wisconsin and Panhandle, at those points, is continuous, a continuous and uninterrupted flow is what I mean, it is constant, so also are the deliveries by Phillips through the Gray plant, the Sneed plant, the Dumas plant, the Goldsmith plant, the Eunice plant, the Crane plant, and the Fullerton plant, isn't that right? A. If I understood your question correctly, you just ask it is constant through the Hansford and Sherman plants. It is true at all these other plants is my memory of the way the question was stated.

Q. I didn't mean constant volume. I mean continuous.

[2098]

It is better, a continuous flow. A. There is a continuous movement between the system of pipe lines in the plants until the gas is delivered.

Q. All the way from the wellmouth? A. From those wells that are connected.

Q. Those wells that are connected? A. Yes.

* * *

[2103]

Q. Well, that is one of those turns down the road that we can't see beyond. Are you familiar, Mr. Rippel, with the cost of constructing 24 and 30-inch pipe line? I have in mind the 24-inch lines recently constructed from the future site of the Tex Booster Station into the Sherman plant? A. No, sir, I am not. I know in a general way. I know an estimate was made and the work was done. I probably saw it, but the figure didn't stick with me.

Q. I mean on a million dollar basis, a 24-inch line be on the basis of $50,000 a mile, do you know?

[2104]

A. Something on that order, I would imagine. It used to be a thousand dollars an inch. Now, it is getting up to two thousand an inch. Some people use 1700, 1800, depending on the length of the pipe and how the labor market is. Those matters —

Q. (Interrupting.) Well, what I am interested in, and I want you to know the full import of your answer is 160 miles of pipe line that Michigan-Wisconsin has built up to the vicinity of the Missouri River at the time the August 9 contract was entered into, August 9, 1948, contract was entered into, that was about 160 miles, and I thought that if you figured that at about fifty thousand dollars a mile, which would mean about eight million dollars worth of pipe in the ground at that time, we could let it go at that. I am prepared to prove the figures, but if you will agree that that is a fair and representative figure from your knowledge of cost, I think we can let it ride at that. A. I would imagine that that is a fair figure.

Q. It would certainly be on the order of eight million dollars spent in that pipe line construction? A. If it had been laid and paid for there would have been eight million dollars spent, yes, sir.

* * *

[2107]

GEORGE P. BUNN

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. McAllister

Q. Mr. Bunn, I believe you are employed by the Phillips Petroleum Company? A. Yes, sir.

Q. What is your full name? A. George P. Bunn.

Q. And you have been employed by the Phillips Petroleum Company for how long? A. Since 1921.

Q. During that period of time, will you state briefly for the record what positions you have held with the company? A. Well, since the beginning until about 1930 I was the assistant to manager of the natural gasoline and gas department and from 1930 until March of this year I was manager of the natural gasoline and gas department and since that date manager of the natural gasoline department.

[2108]

Q. Manager of the gasoline department? A. Natural gasoline department.

Q. Would you state for the record briefly what your duties include, just what that natural gasoline department is? A. Do you mean now or through the years?

Q. Now. A. Now it involves the operations, the company operations, in whole or in partnership in natural gasoline manufacturing plants and various types of special products plants such as synthetic fuels, chemicals; it involves the purchase of considerable gas as a supply for those plants; it involves the administration of all of the activities of the department, that is, the management of the personnel, the organization of the department, the design of the plants, the direction of construction, installing, sale of plants, the disposition of some of the products; it involves membership in the company's operating committee and various other committees of the company.

* * *

[2121]

Q. And as you operate these plants, in the normal course of business, which might be referred to as your day to day operations, there is a continuous flow of gas into the plant and a continuous flow of gas out, isn't that true? A. Except for interruptions, yes.

Q. Well, interruptions which would be in the face of a breakdown or what-not? In any 24-hour period there would hardly be a break in the continuous flow of gas of normal operations? A. Continuous flow through the plant?

Q. Yes, sir. A. That is right. The outlet of the gas might vary in that time, however.

Q. The volume? A. The direction.

Q. How do you mean the direction? A. Well, it might go to one place part of that time and

[2122]

another place in greater volume at another time rather than all to the same place.

Q. Well, that would be true in, let's say, at the Goldsmith plant? A. It might be true in any of them.

Q. Could it be true in the Sherman plant? A. Yes, sir.

Q. I don't fully understand your answer. A. Well, the gas might not flow continuously at sometimes to, let's say, Michigan-Wisconsin from the Sherman plant, it might go to the air for a short period. There might be instead of a shutdown of the plant, there might be difficulty on the Michigan-Wisconsin system, and the plant might continue to operate rather than for all the wells to be shut down immediately.

Q. Well, I have an exhibit here which shows for the Sherman plant in the year 1950, which is Exhibit 58, and they show no volume flared during any of the 12 months of 1950 and for the month of March 1951 no gas flared, so that condition would not have occurred at the Sherman plant during that period? A. That is right.

Q. So that it isn't a very frequent occurrence, as you mentioned, that this escape or venting of gas to the air or flaring it takes place?

A. No, that is right. It isn't a thing we even want to happen.

Q. Nobody wants a thing like that to happen, because it is just a plain ordinary waste of gas. A. But you asked me in the day to day operations and I had to assume in a longer period of time it can happen.

Q. Yes, it can happen, but if you took a month's period or a week's period a period something like that it would be unlikely, would it not, that there were any times when there was not a continuous flow to Michigan-Wisconsin through the Sherman plant? A. There would be, we would hope that there would be, no occasion where we would vent any and that there would be a continuous flow of a part of the gas coming to the plant.

* * *

[2132]

Q. And so far as the casing-head gas in these four plants that I have just named, Crane, Goldsmith, Fullerton and Eunice Plant, the gas is produced in association with oil and the oil is the controlling element that is regulated at point of production and the gas comes with it and into the plant and if there is no market for it, you have no election but to flare it, as I understand it? A. That is right, if it comes to the plant we have no election if the outlets aren't great enough to absorb it.

Q. At the Crane Plant, this shows that for the year 1950 out of 11 billion 604 million 420 thousand cubic feet was processed and of that volume 3 billion 981 million 754 thousand cubic feet was flared, which means that considerable

[2133]

more than a third of the total gas in that plant in the year 1950 was flared. The others don't run as high as that. There is 392 million 72 thousand at the Goldsmith Plant, 889 million 611 thousand at the Fullerton Plant and 1 billion 77 million 804 thousand at the Eunice Plant, but there are only two months at the Fullerton Plant where there was no gas flared, that is, January and February of 1950 and at the Eunice Plant there was January, February and March there was no gas flared, so that as those plants are now operating it is almost a constant occurrence that gas is flared at those plants, is that right, this Exhibit shows that? A. Through the year it was.

Q. Now we come down to March 1951 and that shows that there was some gas flared in each and every one of those plants? A. That is right.

Q. So that apparently it is a continuing situation, is that right? A. Well, it has shown so for that year and for the month of March this year. We may improve it in time.

Q. If we go back the other way in '48 and '49, do you think there is a better picture than this? A. No.

Q. It would be worse? A. Well, yes, it would be better back sometime in the

[2134]

past because there wasn't much gas coming into these plants, but it will be improved some in the future.

Q. Would you say in the usual, normal, regular day's operation of these four plants in the Permian Basin that we have just been talking about, the Crane plant, the Goldsmith plant, the Fullerton plant and the Eunice plant, as well as the Sherman, Hansford, Gray, Sneed and Dumas plants in the Panhandle and Hugoton area, that with respect to all of those plants that the flow of gas through such plants is continuous? A. The flow of gas through the plants is continuous?

Q. Yes.

* * *

[2136]

Q. Well, where it is a volume of gas moving out through the line connecting with the interstate pipeline, there must be, that must be, gas that has moved in a continuous stream from the point of production all the way through the plant except where you might valve off a little line from time to time, but when you open that, well, then, it enters the stream and goes on out, isn't that right? A. There is bound to be a continuous flow of the gas from some sources through the plant connection into a sale, if that were the major outlet of the plant, regardless of the variation of the sources of gas, else by the very nature of the

[2137]

gas, there is no place for it to go, it either goes or it is not going, it is not produced or it is produced. You'd have to put it in underground storage or build large holes for it. It just can't help but be continuously moving in the major mass.

Q. And there are no underground storage places being utilized in the Texas-Oklahoma area? A. There is continuous movement through the plant to every outlet we have, whether it be vent, an interstate pipe line, an intrastat pipe line, a fuel connection, whether it be carbon black or whatever it is, it is bound to be continuous by the very nature of the material if the plant is running at all.

* * *

[2147]

Q. When you say gas is conditioned, are you there referring to desulphurization? A. I am referring to quite a few things.

Q. Anything that can happen in a gasoline plant? A. No, no.

Q. I thought you did. Now, I don't know, I didn't mean that in any—I just thought that is what you were referring to. A. The things we have to do to the gas to meet the specifications under which it is to be delivered.

Q. I see. If you have to take out the sulphur, that is one of the things. If you don't have to take it out, then it isn't one of them? A. That is right.

Q. If you have to take out the water content that is one thing? A. That is right.

Q. If you don't have to, well, it isn't. I mean it all depends on your contract what conditioning means? A. That is right. Your whole purpose for gathering gas is for disposal and you have to meet the conditions for disposal or there is no use in gathering it.

Q. One thing is certain, that you can't increase the Btu content of gas flowing out of a plant to a point higher than it was when it came in.

A. Yes, you can.

Q. How? A. Oh, there are a number of ways. In the first place, the gas that flows out of it may be a small part of the gas coming in, and you can increase the Btu value to considerably higher than the raw gas coming through the plant.

Q. What would you be doing with the other portion of the gas? If there is only a small part going out, where would the rest be going? A. I mean a small part flowing out to one outlet.

Q. Yes, you could produce a stream out of a plant which would have a Btu content higher than the Btu content of the total stream coming in, but that would not be possible with respect to a large volume such as flows out of any of these plants to an interstate pipe line? A. Yes, it would.

Q. Where? A. You could, for instance, increase the Btu content out of the Sherman plant going to Michigan-Wisconsin to a value higher than the gas coming into that plant by taking the liquid product from Hansford plant and enriching the gas to Michigan-Wisconsin.

* * *

[2157]

Cross-Examination by Mr. Sparks

Q. Mr. Bunn, I'd like you to look at Exhibit 59. I'd like to ask you if you know the month when the sales to El Paso were commenced from the Crane plant. A. I think it was July 1950.

[2158]

Q. I call your attention to Exhibit 59 and at the Crane plant for the months preceding July 1950, the volumes of gas flared were very substantially larger, were they not, than for those subsequent to July? A. The volumes flared were larger and the intake volumes were smaller.

Q. That is correct. For example, during the month of June the volumes processed at the Crane plant were 959,275 Mcf and the volume flared during the same month in the Crane plant was 633,353 Mcf, according to this exhibit? A. Yes.

Q. And during the next month of July the volume processed increased somewhat to 1,043,744 Mcf and the volumes flared was reduced to 398,756 Mcf? A. That is right.

Q. And during the month of August the volumes processed increased to 1,055,610 Mcf, and the volume flared was reduced to 32,244 Mcf? A. That is right.

Q. And then continuing on, as shown on this exhibit. In your direct testimony you stated that the flaring at the four plants in the Permian Basin, as is shown on Exhibit 59, will be improved some in the future. By being improved, I assume you mean being reduced in volumetric proportions to the

volumes processed at the plants? A. That is right.

Q. How do you expect the proportion of the gas which has been flared in the past and during the year 1950, as shown on Exhibit 59, to be decreased in the future? A. Well, there are a number of influences that may be anticipated. It may be noted from Exhibit 59 that the flare at Eunice plant in proportion to the intake volume, which is the largest of any of the four plants for the year shown, is considerably lesser in percentage than for the other plants. That would indicate there that we have made marked improvement in that we did not always have that plant in that condition. We flared much greater volumes. We were able to effect useful outlets for the gas over a period of time, so that we reduced the flare down to almost the irreducible minimum, considering the variations of production on the leases from which the gas comes, as well as the variations of outlet. In the case of the Goldsmith plant, we expect to increase the sales there to some of the present sales outlets. We expect producers to use more of the residue gas on their properties in connection with the production of oil and development of the properties, and we expect in time, if flaring continues at any inordinate degree, that the State Railroad Commission will limit the production of oil to force the permissible and allowable uses of the residue gas

or the restriction of oil production, if that isn't done.

Q. Do you know of any efforts that the company has engaged in to attempt to remove the situations or alleviate the situations whereby there are these rather wide fluctuations in volumes of gas coming to the plant which necessitate some flaring? A. Yes. We have done considerable with the producers to encourage more even production of gas or the orderly staggering of production of oil and gas so that we can smooth out the flow of gas to our plants so that we may have a more uniform intake from hour to hour and day to day.

Q. Would you say that the principal cause of the flaring, aside from any breakdown in either our facilities or the facilities of the purchasers, was the uneven flow of gas to the plants as to volume resulting from the uneven production of oil by the producers on the leases? A. That is true here of all of these plants in general, except Crane plant, where in the case of Crane plant in the year shown on this Exhibit 59 there just wasn't any substantial outlets for residue gas at all until the El Paso purchase began in July.

* * *

[2166]

HENRY J. O'LEARY

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Honeck

Q. State your full name, please. A. Henry J. O'Leary.

Q. And your residence? A. Madison, Wisconsin.

Q. What is your occupation? A. I am chief of the Rate and Research Department of the Public Service Commission of Wisconsin.

* * *

[2172]

PRESIDING EXAMINER: That will be marked for identification as Exhibit No. 61.

(THE DOCUMENT ABOVE REFERRED TO WAS MARKED EXHIBIT NO. 61 FOR IDENTIFICATION.)

* * *

[2176]

Q. Can you tell us what those sources were?

* * *

[2178]

A. The actual figures for 1950 were taken from the report of the Michigan-Wisconsin Pipe Line Company to the

Federal Power Commission. The estimate for the year ending March 31, 1952, were taken from a study presented to the Public Service Commission of Wisconsin by Michigan-Wisconsin Pipe Line Company in connection with its filing of a proposed increase in rates before the Federal Power Commission.

* * *

[2181]

Q. You sponsor this exhibit as being true and correct, do you not? A. Yes, sir.

MR. HONECK: At this time the State of Wisconsin and the Public Service Commission of Wisconsin will offer into evidence column No. 1 of Exhibit 61 for identification, being a list of names of the customers.

PRESIDING EXAMINER: Is there any objection?

MR. SPARKS: No.

PRESIDING EXAMINER: That column alone doesn't mean much, it seems—

MR. HONECK: (Interrupting.) Well, I'll offer it.

PRESIDING EXAMINER: All right.

MR. HONECK: Is it received, your Honor?

PRESIDING EXAMINER: Yes, it will be received.

(COLUMN NO. 1 OF THE DOCUMENT REFERRED TO AS EXHIBIT NO. 61 WAS RECEIVED IN EVIDENCE.)

[2182]

MR. HONECK: Then the same parties will offer column No. 2.

PRESIDING EXAMINER: That will not be received. The ruling will be that that is irrelevant to the issues in this proceeding.

MR. HONECK: We will offer column No. 3.

PRESIDING EXAMINER: Is there any objection?

MR. SPARKS: No.

MR. HONECK: That is the one headed "Mcf Purchased."

PRESIDING EXAMINER: Column No. 3, headed "Mcf Purchased", will be received.

(COLUMN NO. 3 OF THE DOCUMENT REFERRED TO AS EXHIBIT NO. 61 WAS RECEIVED IN EVIDENCE.)

MR. HONECK: We will offer column No. 4

PRESIDING EXAMINER: That column is considered irrelevant and will not be received.

MR. HONECK: The same parties will offer column No. 5 headed "Mcf Purchased Estimated Year Ending March 31, 1952".

PRESIDING EXAMINER: To make it short, columns 5, 6, 7 and 8, headed respectively "Mcf Purchased", "Revenue Present Rate", "Revenue Proposed Rate", and "Increase Under Proposed Rate", those four columns are considered irrelevant and will not be received in evidence.

MR. HONECK: Then at this time the State of Wisconsin and the Public Service Commission of Wisconsin desire to

[2183]

make an offer of proof of the columns which have just been ruled to be irrelevant, and we ask that they be made a part of the record under the rule.

PRESIDING EXAMINER: They will be so treated.

MR. HONECK: That is, in connection with the explanatory testimony that Mr. O'Leary has given.

PRESIDING EXAMINER: Yes.

The testimony of the witness, together with those portions of Exhibit No. 61, which have not been received will be transmitted by the reporter to the Secretary of the Commission, along with the documents which have been received and, of course, will become a part of the record of the proceedings to show what has been received and what has not been received.

BY MR. HONECK:

Q. Mr. O'Leary, are you familiar in a general way with the contract between Phillips and Michigan-Wisconsin Pipe Line Company, and its several amendments? A. Rather generally, yes, sir.

Q. Are you familiar with the escalator provisions thereof, in a general way? A. In a general way, yes, sir.

Q. Have you had occasion to make an approximate calculation of the percentage of the increase under the proposed rates which appears opposite the word "Grand Total"?

[2184]

That is the last figure on the right-hand side at the bottom of Exhibit 61. Have you had occasion to make an estimate of the percentage of that amount which will go to Phillips if the proposed increase is granted? A. I made such an estimate.

Q. What is the estimate?

MR. SPARKS: I object.

PRESIDING EXAMINER: The objection is sustained.

MR. HONECK: I would like to make an offer of proof at this time, if your Honor please?

PRESIDING EXAMINER: All right.

BY MR. HONECK:

Q. Will you state what that percentage is? A. Roughly on the order of 20 per cent.

Q. In dollars and cents what is an approximate figure? A. Between 700 and 750 thousand.

MR. HONECK: That is all.

PRESIDING EXAMINER: Does Staff Counsel have any questions?

MR. McALLISTER: I have no questions.

PRESIDING EXAMINER: Counsel for the Respondent?

MR. SPARKS: In connection with the offer of proof there, may I ask this question?

BY MR. SPARKS:

Q. These figures you gave of 700 to 750 thousand was

in reference to the grand total shown in the last column rather than with reference to the total which is as shown in the last column, is that right? A. That is correct, Mr. Sparks.

Q. What is the pressure base of these volume figures? A. I think it is 14.65, as I recall it.

Q. Where is that pressure base shown? A. Do you mean on the exhibit?

Q. If you have it there, I'd like to have you check it because the volume figure doesn't mean anything unless you have a pressure base attached to it. A. 14.735.

* * *

[2221]

GEORGE P. BUNN

resumed the stand, and after having been duly sworn, was examined and testified further as follows:

Redirect Examination by Mr. McAllister

* * *

[2256]

Q. Would it be true that Exhibit 62 would be typical of all or a vast majority of the casing-head gas contracts covering gas purchases and processed through the Goldsmith Plant? A. In greater measure, I'd say it was typical, probably to the extent of some 80 per cent of the purchases there.

Q. How many different types of contract would there be covering the 100 per cent of the gas going into that plant? A. Well, even on this printed form from one producer to another, there will be differences, so that you could say probably there are as many kinds as you have purchase contracts.

Q. What I was really thinking of was the form. This form No. 5265 cht. A. I say that about probably around 80 per cent of the purchases at this point are on this basic form subject to such variations as are interlineated or added or written in.

Q. Then the other 20 per cent would be covered by contracts prepared on how many additional kinds of contracts? A. I don't know offhand, but I would judge as many as

[2257]

maybe three or four basic forms.

Q. Where there are interlineations and changes, are those based upon bargaining between the parties, so to speak? A. Yes, in most instances that is the case.

Q. In other words, you might have, looking at page 2 or item 9, item 8, on this contract, the price in the first blank there is 2.0545, and on the next line there is a blank and it has 1.3399 cents, but now you might—do you have different figures and different prices under those circumstances applicable to gas purchased from adjoining leases? Would they be different? A. Not ordinarily, no, sir.

Q. Are they generally uniform in that given area? A. For a given plant we would ordinarily be the same in this series of contracts applicable on this form to that plant.

Q. Then the bargaining is for the first guy who sells, then, and the others have to fall in line more or less? A. As far as that particular blank is concerned, no, I wouldn't say that. The blank ordinarily is something that depends upon the general quality of the gas supplied to or anticipated for a plant.

[2258]

Q. We got to that question we were talking about last night and you told me you paid for gas flared. Now, on looking at this form, tell me where the element of gas flared is brought into consideration here and in any way enters into the computation of price going to the seller of casinghead gas? A. In paragraph 2 of Exhibit 62, delivery date, it is provided that the delivery of the gas shall begin on the first day of the month of the execution of the contract, and that failure by buyer to accept delivery by said date shall obligate buyer to pay as full consideration for the volume thereafter produced and not taken by buyer.

Q. Go on down to column 3, paragraph 3. A. I beg pardon?

Q. Paragraph 3. Even though the total amount of gas that the seller measures into the system, nevertheless in the last analysis it is related to the volume sold, is it not, so that there is flared gas, there is no volume that is flared that could be included in that volume sold? A. That would depend upon the particular contract. We have contracts which provide that whether or not we take it or whether we have capacity for it, we still pay for all the gas produced.

Q. You said this is 80 per cent in that— A. (Interrupting.) I said the printed basic form was but each one of the printed basic forms may be interlineated

and changed.

Q. There is no interlineation on this one we have been talking about which is Exhibit 62? A. Not with respect to that particular point that has just been mentioned, no, sir; but that does not mean that in other purchase contracts at this plant here aren't such adjustments in the printed form.

Q. Would you say that that represented 80 per cent where you would pay for gas even if flared? Just to cut it short, as a matter of fact, I haven't been able to find any bill or contract yet, and I don't mean to say that I have seen any relative percentage of them, but I haven't seen any of them yet whereby formula or otherwise you take into consideration the volume of gas flared in determining the gas element in the price paid for gas purchased? A. I'll give you an example. At Crane plant we pay for gas produced by Gulf Oil Corporation and we didn't have any lines near it by several miles and we paid for a gas for a matter of 15 years and never got any of it, by contract.

Q. How much did you pay for it per Mcf? A. Exactly what we would have paid if we had taken it into the plant.

Q. That was your election to do it? A. No, it was a contract obligation.

Q. I mean a contract obligation. You could put a plant

in there and processed it if you wanted to? A. That is right.

Q. What I'm talking about is where you take the gas into a plant and in the majority of the cases that portion that is flared is not included in the volume which the price is computed to the seller? A. All gas that we take into the plant we pay for, whatever it happens to be.

Q. Technically you pay for it. A. We absolutely do, technically or otherwise, we pay for it.

Q. You pay for it, but the amount per Mcf that you pay for the gas, the gas element in the price per Mcf, is based upon the volume that you sell and the volume that is flared is not considered? A. I don't know whether I understand you or not.

Q. I'll go at it another way. The dollars you receive for gas sold— A. (Interrupting.) That we receive for gas sold?

Q. Yes, the dollars you receive for gas sold is the basic consideration which determines the price that he gets for the gas element in the gas purchased from lease, casinghead gas? A. In the usual case the price factor based upon our sales of gas from a given plant is determined from that which

[2261]

is sold from the plant.

Q. That is right, and the money which you receive is the money by which you determine the amount that he is to receive? A. That is right.

Q. So that in that computation the gas is flared, you get nothing for it— A. (Interrupting.) Now, which gas is flared?

Q. The gas that is flared out of the plant. A. The residue gas?

Q. The residue gas. A. That which we do not sell and do not use under circumstances where it is regarded as a sale by the terms of the contract and which is flared as a surplus would not enter into the price computation.

Q. So when you say— A. (Interrupting.) We are paying for all gas we buy.

Q. Well, my thinking is just a little different. What is flared represents no gain if a large portion is flared the price goes down per Mcf that the seller will receive? A. Where it is based on this type of purchase, yes, sir.

* * *

[2271]

Recross-Examination by Mr. Sparks

Q. Mr. Bunn, you testified, I believe, that the form which was used in entering into this contract which is Exhibit 62, was a form which had been used on some approximately 80 per cent of the contracts for the purchase of gas at the Goldsmith Plant? A. Yes.

Q. Is this same form used for the purchase of gas at the other three plants which we have been discussing in the Permian Basin, the Crane, Fullerton and Eunice Plants?

[2272]

A. Yes, in varying degrees.

Q. Do you know the approximate number of the contracts at the Eunice Plant which are on this form? A. I don't recall the number, but almost a hundred per cent of the contracts at that plant are on this basic printed form.

Q. Do you know the approximate proportion of the contracts for the purchase of gas at the Fullerton Plant which are on this form? A. They are about the same as at Goldsmith, about 80 per cent of them.

Q. And at Crane Plant? A. Around half of the contracts, I believe, there.

* * *

[2284]

Q. Incidentally, the references on Exhibit 63 to paragraph numbers and table numbers that are contained in these column headings are to paragraphs and tables in the form of contract which is represented here by Exhibit 62, is that not correct? A. Yes. It may be noted from the serial heading of the form used on page 2 of Exhibit 63 that it is similar to that form number used for the contract. In other words, there are companion forms.

Q. Having calculated as shown on the statement here that the column 7 for this particular lease, there was 12,904 Mcf gas sold allocable to seller or this lease, then in column 8, there appears some decimal figures which amount to 4.92 plus cents daily weighted average price per Mcf, defined paragraph 8. I wish you'd look at paragraph 8 of the contract, Exhibit 62, and explain just generally the manner in which that weighted average price figure is derived in actual practice. A. That weighted average price is arrived at by averaging in proportion to the volumes sold, the several volumes sold, the prices received by Phillips for gas sold during the sale month for which the statement is made, whether that gas be residue gas or raw gas, and whether or not it be sold to a third party or under some circumstances used by seller himself, that is, by Phillips itself, in which case certain such uses are defined by the contract by paragraph 8 as sales and such

uses as sales would be included in the determination of the weighted average price.

Q. Just so the record will be straight, I believe you referred to Phillips as the seller. In this contract, Exhibit 62, Phillips is referred to throughout the contract as buyer, isn't it? A. What I meant to say or to do there was to refer to Phillips as the seller of the residue gas or of raw gas which is used in the determination of the weighted average price, but Phillips, insofar as Exhibit 62 is concerned, is defined as the buyer of the raw gas from the producer involved in this case.

* * *

[2309]

MR. McALLISTER: I want to cut it down as much as I can and I don't want to waste time on preliminary questions and matters of simple little questions that don't run to the very heart of the offer.

MR. SPARKS: No, I'll not—as to these exhibits 18, 19, 20 and 21, I'll not raise any question with regard to the authenticity as it appears on the face of the exhibits.

MR. McALLISTER: The question is simply to the relevancy at this stage upon the issue we are trying.

MR. SPARKS: Do I understand you have offered all four of them?

MR. McALLISTER: I have offered all four of them and I want to be heard on my offer right now.

* * *

[2355]

That being the case, the ruling is that Exhibits 18, 19, 20 and 21, taken together as one are irrelevant to the issues in this hearing.

The ruling is further that Exhibits 19, 20 and 21, taken either together or separately are irrelevant to the issue in the proceeding.

MR. McALLISTER: Then I offer Exhibit 18 separately.

MR. SPARKS: The same objection. I don't believe I ever did state a formal objection. May it be considered that

[2356]

respondent has objected to each of the Exhibits 18, 19, 20 and 21 on the ground that they are irrelevant and immaterial to any issue in the case.

PRESIDING EXAMINER: Yes.

MR. McALLISTER: I think that is fairly clear on the record that you objected.

PRESIDING EXAMINER: I think so. I considered it that way at any rate.

As a matter of fact, by referring back to the record I see there is an objection pending to a question which was asked the witness and it has not been disposed of and neither has the question been answered. We then got into the question of the objections to these exhibits.

MR. McALLISTER: I'd like to have a ruling on my exhibit 18, Mr. Examiner.

PRESIDING EXAMINER: The objection to Exhibit 18 is overruled, and that Exhibit is received in evidence.

(THE DOCUMENT ABOVE REFERRED TO AS EXHIBIT NO. 18 WAS RECEIVED IN EVIDENCE.)

PRESIDING EXAMINER: It must be understood, of course, that any interrogation with respect to that exhibit must not involve the matter of rates, because obviously the matters might be gone into in oral testimony that were gone into in these other matters.

MR. HONECK: Mr. Examiner, the State of Wisconsin

and

[2357]

the Public Service Commission of Wisconsin at this time desire to make an offer of proof of Exhibits 19, 20, and 21, under the rule.

[2358]

PRESIDING EXAMINER: Exhibits 19, 20 and 21 will be marked by the reporter, excluded, offer of proof, exception and be filed by the reporter along with those exhibits which have been received in evidence with the Secretary of the Commission.

PRESIDING EXAMINER: I assume, of course, that the Wisconsin Commission is adopting these exhibits as his own when he makes this offer of proof.

MR. HONECK: That is correct.

PRESIDING EXAMINER: They were not originally his exhibits.

MR. HONECK: They are being adopted by Wisconsin and being offered by Wisconsin.

PRESIDING EXAMINER: The same ruling, of course. I mean the ruling will be the same with respect to the offer of Wisconsin.

* * *

[2421]

MR. HONECK: At this time, Your Honor, I would like to complete the record as far as I can by the offer of Exhibit 60, because counsel for the Public Service Commission and I are going to trade this over the week end. He'll be here next week, and I want to be in position to brief him on what has transpired up to date so he can pick up from here on Monday, and I would like at this time to offer Exhibit 60.

MR. SPARKS: May the objections which we have already made to that Exhibit be considered in connection with the offer?

PRESIDING EXAMINER: Yes, they may.

MR. SPARKS: I'll restate it to the extent of stating our objection as to the relevancy and materiality of the exhibit with the sole exception of the gas purchase contract, as to which we do not object. We do object to the exhibit as a whole.

* * *

[2422]

PRESIDING EXAMINER: The objection is overruled. Exhibit No. 60 is received in evidence.

* * *

[2466]

C. O. STARK

resumed the stand, and having been previously sworn, testified further as follows:

[2470]

Examination by Mr. Torkelson

Q. Mr. Stark, I'll show you the documents which have been marked for identification as Exhibit 68, 69, 70, 71 and 72. Will you please examine them? Have you examined those documents? A. Yes.

[2471]

Q. Are those documents from your files in the office of Phillips Petroleum Company? A. Yes.

* * *

Q. Are these documents which we have just referred to the so-called economic study on which you relied when you signed this contract which is in evidence as Exhibit No. 60? A. Yes.

* * *

[2726]

PRESIDING EXAMINER: Exhibit No. 79 is received in evidence.

(THE DOCUMENT ABOVE REFERRED TO AS EXHIBIT NO. 79 WAS RECEIVED IN EVIDENCE.)

MR. TORKELSON: We now would like to call Mr. K. E. Beall. Whereupon,

K. E. BEALL

was called as a witness, and having been first duly sworn, was examined and testified as follows:

Direct Examination by Mr. Torkelson

Q. Your name is K. S. Beall? A. K. E.

Q. You are an employee of Phillips Petroleum Company? A. Yes, sir.

[2727]

Q. Where do you live? A. Bartlesville.

2727

Q. What position do you occupy with Phillips Petroleum Company? A. Vice-president of the economics department.

* * *

[2729]

Q. Did Mr. Learned ask you to make the economic studies which have been identified as Exhibits 69, 70, 71 and 72? A. Yes, sir.

* * *

[2732]

MR. TORKELSON: Mr. Examiner, I feel that these documents speak pretty much for themselves and I offer at this time in evidence, Exhibits 68, 69, 70, 71 and 72. I will, your Honor, retain them in my possession for the purpose of having copies made, as we have indicated, and then I will return the documents that have been furnished to me by Mr. Sparks to Mr. Sparks by registered mail or by messenger.

* * *

[2733]

Examination by Mr. McAllister

Q. You referred to Mr. Learned and stated, I believe, Mr. Beall, that it was he who instructed you to prepare these first of these economic studies, is that right? A. Yes, sir.

Q. In what capacity did he make that request? A. He was assistant to Mr. Endacott, the Executive Vice-president.

Q. Did he hold any position on the Executive Committee? A. I believe not at that time. He was the Chairman of the Operating Committee at that time.

Q. He was Chairman of the Operating Committee? A. That is right.

Q. Is Mr. Endacott also a member of the Operating

[2734]

Committee? A. No, Mr. Endacott was a member of the Executive Committee at that time.

Q. So Mr. Learned in making the request was acting as, you might say, Chairman of the Operating Committee and assistant to Mr. Endacott and it was normal and natural for him to ask you to make a report of this kind to Mr. Endacott? A. Yes, sir.

Q. Does that more or less follow the pattern of studies that you make otherwise when Mr. Learned comes to you and says I'd like to have a report on so and so, an economic study, for Mr. Endacott? A. Yes, sir, it happens frequently.

Q. I believe you stated Mr. Endacott was at that time Executive Vice-president and is now President of Phillips Petroleum Company? A. Yes, sir.

Q. What position does Mr. Learned hold in the organization? A. He is the Executive Vice-president.

Q. He succeeded Mr. Endacott as Executive Vice-president? A. Yes, sir.

* * *

[2737]

PRESIDING EXAMINER: Are there any other questions of the witness at this time?

2737

MR. SPARKS: Not at this time. I'd like to state my objection.

PRESIDING EXAMINER: All right.

MR. SPARKS: To Exhibits 68, 69, 70, 71 and 72. I object to all of the exhibits as a group and separately as to each of them on the ground that they are immaterial and irrelevant to any issue in this proceeding.

* * *

[2742]

PRESIDING EXAMINER: The question is just how far we are going into the details underlying and behind the entering into of the contract.

* * *

[2747]

PRESIDING EXAMINER: You have the contract in the record, the only question is how far we are going now into the investigation and study of the background of this contract, that is all?

* * *

[2752]

MR. TORKELSON: So far as having any ruling turn on how far we can go into inquiring into these things, I do think that it is of importance to show that this is an unusual transaction and we are not going into every one well farm-out or anything like that.

PRESIDING EXAMINER: You understand, of course, that a line has to be drawn somewhere.

* * *

[2759]

PRESIDING EXAMINER: The objections, therefore, to Exhibits 68, 69, 70, 71 and 72 are sustained.

MR. TORKELSON: May I, Mr. Examiner, make an offer of proof with respect to each of the exhibits?

PRESIDING EXAMINER: Yes, you may.

[2760]

MR. TORKELSON: I ask that the documents marked for identification as Exhibits 68, 69, 70, 71 and 72, stand in the record as and for our offer of proof with respect thereto.

PRESIDING EXAMINER: They will be so construed.

The exhibits will be marked by the reporter, excluded, offer of proof, exception, and be filed with the Secretary of the Commission along with those exhibits which have been received in evidence.

* * *

[2812]

MR. SPARKS: Yes, that is fine.

I offer Exhibit 81 in evidence.

MR. McALLISTER: I stated my objection, Mr. Examiner.

PRESIDING EXAMINER: The objection is sustained to Exhibit 81.

MR. SPARKS: As tender of proof the witness, if permitted to testify, would testify that the wells, numbers of wells, shown on the exhibit taken from the books and records of the company kept in the ordinary course of business, that the witness made classification on the exhibit which are "Drilled for new fields" and "Drilled for extensions of producing fields" and "Drilled for new producing zones in producing fields" by an examination of the maps of the company to determine under which of the categories each of the wells should fall, and that the witness perpared it, calculated it, figures appearing under the heading per cent on the right-hand side of the exhibit.

I believe that is all.

* * *

[2813]

GEORGE P. BUNN

resumed the stand, and having been previously sworn, testified further as follows:

Direct Examination

* * *

[2819]

MR. SPARKS: Mr. Examiner, I would now like to have identified as Exhibit 82 a map of the State of Oklahoma and a portion of the states of Texas, New Mexico, Colorado, Kansas, Missouri, Arkansas and Louisiana and it is sheet 1 of Kelly's Map of the United States.

PRESIDING EXAMINER: That will be marked for identification as Exhibit No. 82.

* * *

[2923]

BY MR. SPARKS:

Q. Mr. Bunn, this form, in paragraph A has a number of blanks, and I am speaking of Exhibit 89, the casing-head gas division order. Are those blanks ordinarily filled in in the same manner that the comparable blanks are filled in in paragraph 8 of the casing-head gas contract which is Exhibit 62? A. Yes.

Q. I notice that the division order also has another place for signature at the bottom of the page under which is listed owner. Who signs there? A. The same people who are to receive interest under this agreement.

Q. And then there is a place for signature by Phillips Petroleum Company? A. Yes.

[2924]

Q. Mr. Bunn, aside from variations from plant to plant due to the manner in which the blanks are filled in or some other special variation, and as far as the form is concerned, is the basis of payment under the, provided for under the, casing-head gas division order the same as that under the casing-head gas contract to casing-head producers from whom gas is purchased? A. Yes, with the same possible minor variations from agreement to agreement.

Q. If the statement which is Exhibit 63 in this record with a statement covering a royalty interest at the Goldsmith plant, in other words, a statement covering the Phillips lease at the Goldsmith plant, instead of a Stanolind lease and an accounting was to be made to the royalty owners, under this division order, Exhibit 89, the same method of accounting would be followed, would it not, in the statement as to the factors involved and would operate in the same manner? A. Yes, the same method of accounting would be pursued on the same forms as is indicated in Exhibit 63.

Q. Just so it is clear, Exhibit 63 shows quite a number of small interest owners, does it not? A. On page 3 of Exhibit 63, yes, there are quite a number of owners indicated there, many of whom have small interests.

Q. And they are royalty owners, are they not? Can you tell by examination of the interest there that they are royalty owners?

[2925]

MR. McALLISTER: It might be property owners, too, would it not?

MR. SPARKS: Royalties are property, Mr. McAllister.

MR. McALLISTER: I know, there might be something down in the bottom of the hole, but the other fellow owns the surface.

THE WITNESS: I don't know about every one of them, but I do know that a number of them are royalty owners.

BY MR. SPARKS:

Q. If you added up the interest accredited to Stanolind and the interest accredited to Atlantic, the two signors of the sales contract which is Exhibit 62, would you get 7/8 interest? A. Yes, you get 87-1/2 per cent by adding the decimal ownership there.

Q. From that would you deduce the balance of them were royalty owners? A. Yes; that would be a very good indication in that the whole adds up to one or to a hundred per cent and the other 1/8 is ordinarily typical royalty.

Q. Assuming that these are royalty owners for the purpose of the question, does Phillips Petroleum Company have assigned any instruments similar to Exhibit 89 with these royalty owners? A. Oh, yes. Where we have division orders as on form 89 on other leases.

Q. Assigned with royalty owners under the Stanolind lease?

[2926]

A. There may be some of the same people, but for leases that Phillips Petroleum Company rather than Stanolind's.

Q. I am speaking of them as royalty owners under the Stanolind lease. Would you have such a division order signed covering the Stanolind lease? A. No, sir.

* * *

[2935]

Q. Mr. Bunn, was Exhibit 91 prepared under your supervision and direction? A. Yes. This map was prepared as I directed from the various records of the company from which we could prepare the various kinds of data shown hereon

* * *

[2939]

Q. If you were writing about that line which forms a T right above section 30, immediately south of what you

[2940]

described as Section 19, how would you describe that line? A. Well, ordinarily—

Q. (Interrupting.) I mean not ordinarily, but right now from this map, which would give us sufficient designation that we'd know what it was. A. Well, what I would do right now would not be what we'd do ordinarily, but I'll tell you what we'd do now if we were to do that. We would speak of the gathering line running north and south about a quarter of a mile west of the north and south section line along the east side of Section 30 in Block 44, Township 1, south, Texas, and Pacific Railway.

* * *

[2949]

Q. What is the black and yellow? A. That is the line to which we referred yesterday on another map as the Mextex line, which was the natural gasoline production line running out of the Permian Basin to near Borger.

Q. To Borger? A. To near Borger.

Q. Why do you say near? A. because it isn't at the town. It is more nearly the town of Phillips, Texas, which is northwest of Borger a few miles, but it isn't in the town of Phillips, it is near that.

Q. Where does it go actually? A. That is where it ends.

Q. Does it run out into a lake or something? A. No, it goes to a plant owned by Phillips at that point, which we call Borger fractionator.

Q. And that is where it is converted into butane, propane or other products which might be made out of natural gasoline? A. Yes, sir.

[2950]

MR. McALLISTER: Thank you, Mr. Sparks. I didn't mean to interrupt, but I mean sometimes—

MR. SPARKS: (Interrupting.) That's all right, I was going to ask that question anyway.

BY MR. SPARKS:

Q. And the red solid lines on the map— A. (Interrupting.) The red what?

Q. The solid red lines on the map, what are they? A. The solid red lines are gas gathering lines that are in and operating.

* * *

[2999]

Q. Mr. Bunn, do you have copies of Exhibits 99, 100, 101, and 102? A. Yes, sir.

Q. Will you please examine them and state whether or not they are aerial photographs taken of the plants which

[3000]

appear by name on each of the photographs? A. Yes, sir, these are all aerial photographs which we had made to show these four plants and their immediate environs.

Q. What was the approximate date when these photographs were taken? A. I don't recall the exact date, but it was sometime last summer; it seems to me it was about July or August of last year.

MR. McALLISTER: On Exhibit 102, it says "proposed delivery point to El Paso". Is that an actuality?

THE WITNESS: That is the actual delivery point, yes, sir.

* * *

[3049]

MR. SPARKS: Mr. Examiner, we request that a tabulation marked "Percentage of Gas Supplied by Gulf Oil

Corporation Based on Volumes for March, 1951", be marked as Exhibit 95-A. That was the information which we were to supply with regard to that.

PRESIDING EXAMINER: It will be so marked.

* * *

[3050]

MR. SPARKS: Mr. Bunn, were Exhibits 95-A and 96-A prepared under your supervision and direction? A. Yes, sir.

* * *

[3051]

MR. SPARKS: We request that a map which is entitled "Panhandle and South Part of Hugoton Field" be marked for identification as Exhibit No. 103.

PRESIDING EXAMINER: It will be so marked.

* * *

[3052]

BY MR. SPARKS:

Q. Mr. Bunn, was the map of the Panhandle field and the south part of the Hugoton field, which is Exhibit 103, prepared under your supervision and directions? A. Yes, sir.

* * *

[3055]

BY MR. SPARKS:

Q. Mr. Bunn, the basic information with regard to the lines, Phillips lines, which appear on this map, were the same basic maps and information from which certain maps were prepared which have been furnished to the Staff and used by the Staff in this proceeding and have been brought up to date by the Staff in this proceeding, isn't that correct? A. Yes, sir; I understand that the same information was supplied the Staff from which the lines on this map were made.

Q. And an attempt has been made to see that the lines as brought up to date and checked for this map were the same as those which have been furnished to the Staff? A. We attempted to furnish the Staff with the same information from the same sources as this map was brought up to date from.

Q. That is, insofar as, of course, the maps of the Staff contain and reflect the same type of information as shown on this map?

[3056]

A. Yes; to the extent that they desired it they have had the availability of the same information.

Q. What area is covered by the map? A. Well, the map covers a portion of the Panhandle of Texas and a portion of the Panhandle of the State of Oklahoma, and covers quite a number of counties which are shown on the map in the two states combined and shows by the outlines on the map the major portion of the Panhandle field and about the southern one fourth of the Hugoton field. The map describes the portions of the total Panhandle field which is shown on the map by the labels in green in large letters "West Panhandle field" and "East Panhandle field", which are subdivisions of the greater Panhandle field made by the Railroad Commission of Texas. The portions of the Hugoton field which extends through part of Texas, the Panhandle of Oklahoma and into a part of Kansas is labeled on the map insofar as that part of it is shown as "South Hugoton field" in green letters, including the portion of the Hugoton field which is in Texas and a portion of the Hugoton field which lies in Oklahoma.

Q. The word "South" that is used in connection with Hugoton on the map, is that used to indicate that there was a south Hugoton field as a field distinguished from the Hugoton field as a whole or merely to show that that was the southern portion? A. That is merely to show that geographically this is

[3057]

the southern portion of the Hugoton field.

Q. And you stated the map doesn't show about the north three fourths of the Hugoton field. Does Phillips own any substantial number of leases in that part of the Hugoton field? A. In the part of the Hugoton field which is not shown on this map, that is, the remaining approximately three fourths Phillips has very few leases.

[3058]

Q. I notice a dash line running generally in a north and south direction to the right of which there is the language in green letters, "East Panhandle Field", and to the left of which is "West Panhandle Field". Is that dashed line to represent the division between those two fields as they have been described and defined by the Railroad Commission for proration purposes? A. Yes. That heavy black dashed line is the description or is the location of the latest description of the Railroad Commission as to the boundary between those two portions of the Panhandle Field.

Q. And near the center of the map between the West Panhandle Field and the South Hugoton Field there is also a dashed line, what does that represent? It is a heavy dashed line? A. The heavy dashed line from the point of intersection of the northeast corner of Hutchinson County, the northwest corner of Hutchinson County, and the northeast corner of Moore County and running generally southwest from that point is the location of the division between the Hugoton Field and the Panhandle Field as prescribed by the Railroad Commission of Texas.

* * *

[3094]

MR. SPARKS: The two symbols as shown on this map are a division of the part interest leases, that is, leases under which Phillips owns a part interest and someone else owns a part interest in the two different categories, one of them being leases in which Phillips owns a portion of the oil and gas rights, that is, under the lease, the other being a situation where Phillips owns all of the gas rights but none of the oil rights.

Q. That is a correct statement, is it not, Mr. Bunn? A. No, the last statement, I believe, should be reversed, in which Phillips owns many oil rights and not the gas rights.

Q. Did I say it the other way?

A. Yes. All acreage colored with two colors is correctly colored as far as I have checked it in that Phillips has part interest in all such properties. In the case of the two colored properties with the circle shown on Exhibit 104, the interest in such cases which Phillips has is applied to the oil and casing-head gas only, in which case it owns all of those rights under such properties and none of the rights in wells which produce dry gas only, and it has contracts for the purchase of the dry gas rights in those cases and in the other cases without the circle contracts for the purchase of any gas.

Q. When you said contract for purchase of dry gas rights, you mean the purchase of gas produced dry gas? A. Yes.

MR. McALLISTER: One other point I'd like to clear up there. You show here a red line, a gas gathering line, and then you show residue lines. Is that merely descriptive terminology that you have used on here and you don't undertake by including that description on the map to differentiate between a residue line and a natural gas line if somebody wants to call it a natural gas line, do you?

THE WITNESS: They could call it anything they want, that is right. The residue line as depicted here, it is depicted as such merely for convenience of distinction of the kind of gas moved through the lines. Some are called residue lines and

they are labeled that way for convenience.

MR. McALLISTER: And on the gathering lines you merely mean the lines that lead to the vicinity of the leases and which connect with lines from the leases to the gasoline plants?

THE WITNESS: Well, the gathering lines are the lines which take part in the gathering of the gas from the wells and leases.

* * *

[3109]

Q. Mr. Bunn, is Exhibit No. 105 a photostatic copy of a casing-head gas contract between Champlin Refining Company and Danciger Oil & Refining Company as sellers and Phillips Petroleum Company as buyer, which is one of the casing-head gas contracts you have with producers of casing-head gas in the area covered by the Exhibit 104? A. Yes, sir.

MR. SPARKS: I assume, Mr. McAllister I don't need to read through—

MR. McALLISTER: (Interrupting.) No, not at all.

BY MR. SPARKS:

Q. Is this contract on a form which is generally representative of the other contracts under which you purchase casing-head gas for processing in the plants that are shown on Exhibit No. 104? A. Yes. This is a typical basic printed form of contract used in that area.

Q. You testified about Exhibit 62, which was basic form of contract under which Phillips purchased casing-head gas in the Permian Basin, did you not?

[3110]

A. I don't recall the exhibit number, but I did, yes, testify concerning a typical basic printed form contract for that area.

Q. This is a slightly different form? A. Yes, sir; it is not quite the same in its provisions with the other contract.

Q. Both of them, however, do include provisions for the return of residue gas for lease operations, do they not? A. Yes, sir.

Q. And each of them also includes a payment to be made, the amount of which is dependent on the gasoline content of the gas and the current price of 26-70 natural gasoline or crude oil? A. Would you read that question, please? (The question was read by the reporter.) A. The payment is dependent on that in part, yes.

BY MR. SPARKS:

Q. In part. And each of them also contains payment provisions under which payment in part is determined by the price received for residue gas which may be sold by Phillips? A. Yes. The price received by Phillips as defined in the contract.

Q. As defined in the contract? A. Yes.

Q. Exhibit No. 106, is that a statement, monthly statement

[3111]

for the month of March, which was made to the sellers of the gas under the contract which is Exhibit 105? A. It is the statement from which statements to the sellers of gas are prepared.

Q. This is what we call a master copy? A. That is right, the first page is and the second page is the listing of all interests which are paid, but statements that go to those interests carry only the information shown on the second page and the particular interest of the owner involved and the amount of money he receives.

* * *

[3140]

Q. Mr. Bunn, do you know approximately what per cent of the royalty owners who own dry gas royalties or gas well gas royalties under Phillips leases in the Panhandle and South Hugoton Fields have executed whichever of these Exhibits 109, 109A and 109B is applicable to his area?

* * *

THE WITNESS: We made an intensive campaign to get these

[3141]

forms executed in the areas mentioned and succeeded in getting something around 90 per cent of all of the leases covered by these agreements on applicable properties.

* * *

[3146]

Q. Does the map show the raw gas gathering lines beginning in the Hartley County in red? A. Yes. Gas gathering lines in general on the exhibit are shown in red.

Q. Is the area which is shown on this map often called the Borger area? A. Yes. This comprises in its general scope the area we refer to as the Borger area in our operations.

Q. Is it sometimes referred to, at least in the gathering lines, the system of the gathering lines referred to, as the

[3147]

Moore County gathering system? A. Yes, we use that term quite frequently.

* * *

[3208]

Q. Turn to Exhibit 117. I call your attention to the point marked on that exhibit as delivery point to Michigan-Wisconsin. Do you find that? A. Yes.

Q. Is the point that is so marked on Exhibit 117 the outlet of the bank of six meters which are shown on the flow sheet which is Exhibit 45-A? A. Yes, that is correct. I wasn't sure. You can't tell from the photograph, and I'm checking the contract here. The point is at the outlet of the meter station.

Q. Does Phillips own and operate those meters? A. Yes.

Q. And the facilities of Michigan-Wisconsin for receipt of the gas connect at the outlet of the meter station? A. That is right.

* * *

[3257]

Q. Mr. Bunn, you have been connected with the natural gasoline industry, I believe, since 1923, is that correct? A. No, since about 1916.

Q. And since 1923 you have been in the employ of Phillips Petroleum Company in a managerial position? A. Since 1921 I have been with the Phillips Petroleum Company.

Q. And during that time, during your connection with the industry and particularly since your connection with the Phillips Petroleum Company, have you been acquainted with and do you have knowledge of the terminology which is used in the industry with reference to various facilities that constituted the facilities used in the operations of the natural gas and gasoline industry? A. I think I do, generally, yes, sir.

Q. As it is considered in the industry, from your knowledge of the operations of the industry, and Phillips Petroleum Company's operations in the industry, what are the functions that are ordinarily performed by a gatherer of natural gas? A. Well, in our operations we have from the beginning considered our operations as being those of gathering gas, and those operations which we have historically engaged in predominately have been in connection with our various plant

[3258]

installations whether they be handling casing-head gas or gas from wells producing gas only or gas from a combination of the two of which we have considered ourselves gatherers of gas in the collecting of the gas from the wells or leases in the qualifying or conditioning of the gas and conveying it to one or more points of disposal in or near the area where the gas is produced.

Q. Do you consider that the conditioning of the gas for disposal, both in the fractions that are disposed of in liquid and in gaseous form are a part of the functions of a gatherer? A. Yes. Historically the producer of casing-head gas in this industry collected the gas on his own lease or from several of his own leases and he himself was predominantly the operator of a gasoline plant where such was installed and he collected the gas and processed it and conveyed it to points of disposal. His purpose was to do that. He found it desirable and economical to collect the gas from various wells, leading in various leases, to a common point or points of disposal so that the gas in the total quantity available from all sources was collected together at some one or more such points for the disposal necessary. He regarded the extraction of gasoline as a part of disposal and in cases where he sold the residue gas or where he utilized it even because of the hazard involved in directly using the richer casing-head gases for fuel, he

considered the extraction facilities as partly qualifying or conditioning facilities in connection with his total operation of gathering in order to make the gas saleable or safe for use.

Q. When you were first employed by Phillips Petroleum Company was it then engaged in the business of collecting gas and processing it in gasoline plants and disposing of the residue gas? A. Yes, sir.

Q. And has it been engaged in that business in numerous plants and numerous situations since that time? A. It has been so engaged and all of its plants since that time. In the beginning, when I joined the company, we had three plants, and the residue gas from all of those plants was predominantly utilized or sold and it was the aim of the company and it was our definite intentions as a department as we saw the opportunity to broaden our operations and to become a collector, a gatherer, of gas for the fullest and most economic utilization and disposal that we could, wherever we could find such opportunity where gas was not so fully being utilized, either from the wells or even through existing plant and gathering facilities as we might find them.

Q. Now I wish you'd turn to Exhibit No. 86, Mr. Bunn. That is the map of the West Texas area. Does the term "Gathering lines" have a well defined and understood meaning in the natural gas and gasoline industry?

[3260]

A. Will you read that question, please? (The question was read by the reporter.) A. Yes, I think a very definite meaning in the industry.

Q. Has it had such a meaning since you first became connected with the industry and were first employed by Phillips Petroleum Company? A. Yes, sir.

Q. On this map, Exhibit 86, you observe the Crane plant, which is in the lower right-hand corner. That plant was constructed in what year? A. 1929.

Q. Has there been any substantial change in the red lines which are denominated gas gathering lines on this map, Exhibit 86, at the Crane plant since it was first constructed? A. Well, shortly after it was constructed we had to learn how to use, how to handle, how sulphide bearing gas. Until we learned that we lost quite a number of lines there by corrosion and they had to be replaced, in the early years of the plant. Those lines, however, were replaced substantially in the same location as the lines which had to be removed, and the system as shown here in red other than that has not been substantially changed except for extensions. I mean by substantially changed that more of the original system is depicted in the lines shown than anything which has been added or changed since.

Q. As the term "Gathering line" has been known in the natural gas and gasoline industry since your connection with it, are the red lines which are denominated gathering lines on this map and which collect gas which is processed in the Crane plant gathering lines within the meaning of that term as it is used and understood in the natural gas and gasoline industry? A. Oh, yes. Yes, sir. Historically I have never heard any other term used for those lines in general. They have always been called gathering lines. Sometimes they may be referred to simply as pipe lines or raw gas lines occasionally for distinction as among the many terms of equipment around the plant, but they have always been regarded and talked of as gathering lines.

Q. The map also shows in red and marked on the map as gas gathering lines through which gas is collected for processing at the Goldsmith, Fullerton, Eunice, Hobbs, Lee, Seminole and Judkins plants? A. Yes. Those lines shown in bright red on the map are similarly gathering lines for each of those respective plants.

Q. And within the meaning of that term as it is known and understood in the industry are they gathering lines? A. Yes.

Q. And does that include the larger lines as they lead into the plant as well as the smaller lines? A. Why, certainly. The purpose of gathering is to get the gas to one or more points of disposal. You don't gather

[3262]

out on the prairie or in the middle of a lake some place and then just stop. You get to the point of disposal. All of those lines, the larger ones which are larger only because they carry more gas, are gathering lines along with the smaller ones.

Q. Did you ever hear anybody refer to those lines that are marked gathering lines on this exhibit as transmission lines? A. No, not in the sense that we understand transmission in the general sense. They are always called gathering lines.

Q. Now I wish you'd turn to Exhibit 104. Exhibit 104 also has on it some red lines which are denominated "Gas gathering lines" on the exhibit? A. Yes.

Q. Are those red lines gathering lines within the meaning of that term as it has been and is known and understood in the natural gas and gasoline industry? A. Yes, sir; and in addition those other lines which I stated this morning are actually installed in some parts of this field and not shown on the map for the collection of most of the casing-head gas.

Q. They are the lines that go to the casing head, is that what you are speaking of? A. Yes.

Q. Which are not depicted on the map? A. That is right.

Q. Now if you will look at Exhibit 111, you will see that

[3263]

it also reflects a large number of lines in red which are denominated on the map "gas gathering lines"? A. Yes.

Q. Within the meaning of gathering lines as that term is generally known and understood in the industry and has been known and understood in the industry for many years, are those red lines gathering lines, that is, the red lines on the map, Exhibit 111? A. Yes, sir, those are all gathering lines.

Q. Does that include the larger 24-inch lines as well as the smaller 4, 6 or 8 or 10-inch lines which lead to the wells? A. Yes, sir. There are not quite so many operators perhaps who have quite so extensive a system as shown on the exhibit, and they might not have as many of the larger sized lines as may be here, but the system and its purposes are identical with those elsewhere in the industry and would be classified as gathering lines.

Q. Now I call your attention to Exhibit No. 116. On that exhibit there appear some pink lines and some black lines, all three of which are designated on the exhibit as gathering lines, and I will ask you whether or not, as the term gathering lines is known and understood and has been known and understood in the industry, those lines so designated on the map, Exhibit 116, are gathering lines?

[3264]

A. Yes, sir, all those lines, whether solid or dotted, pink or black, when installed and serving in a system like this, would be called gathering lines, would be so considered by the industry.

MR. SPARKS: I believe that is all.

One moment.

BY MR. SPARKS:

Q. I wish you would turn to Exhibits 12, 13, 14 and 15. Looking first at Exhibit 12, to the extent that the lines are shown through which gas is collected which is processed in the Sherman plant are the pipe lines which are shown on this Exhibit 12 gathering lines within the meaning of that term as it is and has been for many years known and understood in the natural gas and gasoline industry? A. Yes. I say that without having examined every feature of the map but recognizing from the title and the pattern of the lines here as representative of those lines supplying Sherman plant, I'd say those are gathering lines, would be so construed by the industry.

Q. The testimony in the record is that territory lines are not reflected on Exhibit 12, and it has been revised and the revised Exhibit 12 as Exhibit 12-A will be inserted in the record, but has not been done so as yet, as I understand it. Now I call your attention to Exhibit 13 and ask you to state whether or not the lines on that exhibit are gathering lines

[3265]

within the meaning of that term as it is known and as understood in the industry? A. As I recall how we have directed the installation of this system depicted here up to the latest moment, it does not quite correctly reflect the exact system, but if the connections with all as shown on this map, and most of it, I believe, is correct, all of those lines would be identified as gathering lines.

Q. And would be so considered in the natural gas and gasoline industry? A. Yes, that is right, all of them except the line here labeled Pepl Co. which may or may not be a gathering line.

Q. You mean the heavy dashed line? A. Yes.

Q. I call your attention to Exhibit 14 and ask you whether or not the solid black lines on that exhibit would not be considered gathering lines within the meaning of that term as it is ordinarily known and understood in the industry and in connection therewith and state to you that the testimony in this record is that said solid black lines are a bulk of the Phillips pipe line system in the areas shown by the map and that there is an understanding between counsel that certain minor additions and corrections will be added to Exhibit 14 and inserted in the record as Exhibit 14-A. A . Without again examining the map in complete detail

and having some difficulty orienting myself for reason of the lack of geographic descriptions, sections and so on, I believe all the solid lines shown on here would be called gathering lines.

Q. I ask you if the same would be true with regard to the solid lines on Exhibit 15? A. Yes, in general again, looking at this exhibit, I believe that from a hasty examination all the lines shown thereon would be gathering lines.

Q. I call your attention now to Exhibit 48. Do you observe that exhibit? A. Yes.

Q. Are the lines shown on that exhibit gathering lines within the meaning of that term as it is known and has been known for many years in the natural gas and gasoline industry? A. Did you finish your question?

Q. Yes. A. I'm not sure about it. Will you read it, please.

PRESIDING EXAMINER: Read the question. (The question was read by the reporter.) A. Yes. Without regard as to whether all the lines are shown or they are all shown exactly correctly, the system depicted hereon as the system which supplies Eunice plant gas would be called gathering lines.

Q. Would you look at Exhibit 49, which is a diagram of pipe line facilities at the Fullerton plant, and state whether

[3267]

or not the solid lines thereon, which are, according to the record in this case, the lines of Phillips Petroleum Company through which gas is supplied to the Fullerton plant, and state whether or not those are gathering lines as that term is known and understood in the industry? A. Yes, sir, those would be gathering lines.

Q. Turn to Exhibit No. 50 and state whether or not the same is true of the solid black lines on that map, which purport to be the lines through which gas is collected and processed at the Goldsmith plant? A. Yes. Again, without reference to the correctness of them, but represented as the lines through which gas is supplied to Goldsmith plant, these would all be gathering lines, and they would be so construed by the industry.

Q. I notice that one of the lines coming from the north, which appears to be marked "D", is a 26-inch line as it is shown on Exhibit 50. Do you find that line? A. Yes.

Q. Would that be a gathering line within the meaning of that term as it is known and understood in the industry? A. Yes, sir.

Q. There is another one from the south that is marked a 16-inch line. Would that be a gathering line? A. Yes, sir.

Q. And another one marked a 20-inch line. Would that be

[3268]

a gathering line? A. Yes, sir.

Q. Is the size of a line as it enters the plant yard in any way determinative of whether it is considered a gathering line in the industry? A. No, sir.

Q. Please turn to Exhibit No. 51. This exhibit purports to reflect the lines of Phillips Petroleum Company, that is, the solid lines on the exhibit purport to reflect the lines of Phillips Petroleum Company, through which gas is collected and from which gas is processed at the Crane plant. Are the lines shown on that exhibit gathering lines within the meaning of that term as it is ordinarily known and understood in the industry? A. The solid lines shown hereon, depicted to indicate the lines through which gas is supplied to Crane plant would be so regarded in the industry as gathering lines.

* * *